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ONTARIO ADVISORY COMMITTEE ON CONFEDERATION

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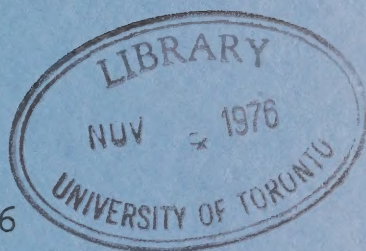
M E E T I N G S

held at

The Park Plaza Hotel,  
TORONTO

on

SATURDAY, APRIL 23, 1966  
and  
SUNDAY, APRIL 24, 1966



VERBATIM REPORT OF PROCEEDINGS

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ONTARIO ADVISORY COMMITTEE ON CONFEDERATION

-----Meetings held at The Park Plaza Hotel,  
Toronto, on Saturday and Sunday,

ONTARIO ADVISORY COMMITTEE ON CONFEDERATION

PRESENT:

Mr. J. Macdonald (Chairman)

Prof. A. Brady

Prof. J. Conway

Prof. D. Creighton

Prof. A. G. Fisher

Prof. W. H. Hall

Dean W. R. Johnston

Mr. C. R. Macdonald

M E E T I N G S

The Rev. Dr. L. M. Matte

held at

Prof. A. C. McIvor

The Park Plaza Hotel,  
TORONTO

Prof. J. W. Wilson on

SATURDAY, APRIL 23, 1966

and

SUNDAY, APRIL 24, 1966

Mr. D. Stevenson)

Mr. R. Farrell ) Co-Secretaries







# ONTARIO ADVISORY COMMITTEE ON CONFEDERATION

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Prof. A. Brady

Prof. J. Conway

Prof. D. Creighton

Dean R. Dillon

Prof. P.W. Fox

Dean W.R. Lederman

Mr. C.R. Magone

The Rev. Dr. L. Matte

Prof. R.C. McIvor

Prof. E. McWhinney

Prof. J. Meisel

Mr. H. Perry

Mr. R.N. Seguin

Mr. D. Stevenson)

Mr. R. Farrell ) Co-Secretaries

Personally I find the papers both very





--- At 3.00 P.M.

THE CHAIRMAN: I do not know how the other groups may have approached their discussions. I think in our group we attempted to focus on points which would both provide a place for discussion this afternoon, and perhaps areas that we would want further work and further clarification on.

As I mentioned, our original intention would be that this would be a fairly informal discussion and try at least this afternoon to range broadly over the issues, while still trying to maintain some focus of a practical kind.

Perhaps we might start by reviewing briefly some of the approach or issues that the group saw emerging. Bill, would you like to make any remarks at the outset from your group?

DEAN LEDERMAN: Mr. Chairman, I am not sure that I have anything very well defined to say. All I propose to do is to mention two or three issues that we discussed and about which as a committee we did not take a position. Although individuals have opinions and positions, we did not think that that was our function this morning, that we could expect as a committee to come up with an agreed position on the whole range of things that are involved in these two papers.

Personally I find the papers both very







impressive documents, and they do raise many fundamental issues for us.

Now, just some points we were wondering about Dr. Brady's paper, and we did not get into much discussion of the straight economic issues in the economic sub-committee's paper. We were wondering about the question of the idea of ten provinces of Canada as compared with fifty States in the United States, the difference in geographical extent of these areas.

One issue we discussed was whether Dr. Brady was correct to draw the inferences which he did from this. In other words, is the emphasis on provincial autonomy in Canada pre-ordained by our geography or our history or our racial diversity or other factors, as much as may seem to be implied in that paper?

I just mention the issue, and I think the implication is there that there is a certain amount of pre-ordination in the emphasis on provincial autonomy. For instance, is it really politically impossible that in subjects where one might conclude that national standards are needed, what we have to do is get inter-provincial, dominion-provincial agreement, and not simply transfer the subject to federal jurisdiction? It is the orthodox way in the federation of national standards after all. Dr. Brady may be right about this: it may be





politically impossible to have all these things at the present time, but it is not set forward in his view as a realistic alternative. He may be right about it. I do not know.

We all agree that we were very worried about the implications of opting-out, and we were somewhat upset that Professor Brady seemed to think opting-out might go on and might go further than it has even to date.

Here I am speaking probably personally and not about issues which our committee felt they saw, but the general conclusion to which Professor Brady came, that we have to leave the constitution the way it is, and that we do not attempt to engage in a major re-writing at this point but operate within the guide lines of the existing constitution; this is my view which I have expressed a number of times in a number of ways, so I am certainly in agreement with that proposition.

I am in agreement here because, as I suppose, as far as my basic assertions are concerned, I am something of a centralizer. I am in favour of a strong national government. At the moment it seems to me that maybe the best thing you can do for strong national government is to hold the line on the present scope of federal powers under the British North America Act, but





at least not permit federal powers to be reduced below what they are at that point.

So being in favour of a hold-the-line position, as far as I am concerned, as a matter of judgment of the political possibility at the moment, this is the best thing we can do at the moment to safeguard federal powers.

To some extent I have no personal view; to some extent I have pointed out the issues which all members of our committee were concerned with. Dr. Forsey has in his letter indicated his areas of concern, and we are not in a position to take a position as a sub-committee and I do not think that is expected of us at this time.

THE CHAIRMAN: Well, I suppose we can give Professor Brady an opportunity to initiate a rejoinder here or perhaps it might be better to hear reports from the other groups at once as to how they proceeded and then try to check into some of the issues that have been raised. There are already a number of them come from Dean Lederman. Are you reporting for yourself, Professor Brady, and for the committee?

PROF. MEISEL: He compounded a brilliant paper.

PROF. BRADY: Perhaps not. I just make the remark that in our group we discussed rather a number of items which in the main arose out of





my paper.

MR. MAGONE: Can't hear down here, Alec.

PROF. BRADY: In our group we discussed a number of items which arose out of my paper. Many of them were suggested by the questions raised by Eugene Forsey in his letter.

We did not attempt to get any general consensus, I think, although we discussed some specific things, and there was a substantial amount of agreement, I think, amongst the members of the committee on most of the points.

Now, rather than attempt to summarize these myself, Don very kindly took some notes and agreed to perhaps touch upon some of the points that we discussed.

THE CHAIRMAN: You are elected.

MR. STEVENSON: Just a few things. First, the committee did make it very clear that as a group it approved of the paper and its general lines unanimously, except for a minority dissent with the opinion at the end of the paper on the desirability or not of drastic revisions in the B.N.A. Act in the near future.

I think the committee did feel that perhaps the paper should be added to with regard to basic reference to inter-provincial arrangements, or perhaps an added reference to the machinery or mechanics of federal-provincial relations; although





Professor Brady did say that his more detailed discussion of federal-provincial machinery would be left to a separate paper.

On the individual points, each of Dr. Forsey's comments contained in the letter were gone into separately. I do not know whether it is worth while going through each of them, but I think for most of his comments, although the committee discussed them, they felt there was not much necessity for change in the paper itself. This applied to his comments relating to pages 3 and 4.

As far as comments on page 9 were concerned, it was suggested that perhaps a slight change in wording might be made to make it clear that there were conditional grants before World War II as well as in the post war period.

Relating to his comment on page 13 on the danger of eroding national standards by giving up conditional grant programmes, I think the committee generally agreed that one could put too much emphasis on national standards; that there were different requirements in different parts of the country; although there was certainly recognition that in some areas national standards were required.

The committee generally agreed with Dr. Forsey on his comments relating to page 16.

As to his comment on page 21, the group





felt that Professor Brady had covered himself by saying:

"In many respects the policies of  
"Quebec seem to differ only in  
"manner from those of other major  
"provinces."

Even though, of course, in some respects, Quebec's position differed in substance.

Dr. Forsey's comments relating to page 26 and 32, the committee felt really did not require a change, although on page 32 I think it was felt that both the word "regulation" or "instruction" was probably quite all right.

Going back to some other comments unrelated to Dr. Forsey's comments, the committee felt that on page 6 in the second paragraph where there was a reference to the gap between the average income per capita in the Maritime provinces and the country as a whole, that there might be some change at the end of the paragraph so that it would read:

"Thirty years later the Gordon  
"Royal Commission found that the  
"situation had not substantially  
"altered, although more recent  
"evidence would suggest that some  
"change has since occurred."

To make note of the fact that there has been some





narrowing of the gap in income standards in the last four or five years between the Maritimes and the richer provinces of Canada.

On page 21 again, there was a feeling that although Professor Brady's paper suggests that only the major provinces had similar points of view to Quebec, that the points which he brought out in the main paragraph on 21 really related to almost all of the provinces; since on most issues all provinces were seeking greater revenues from the federal government and not just the major provinces.

A minor point on page 21 was that the reference to Quebec's opposition and Ontario's opposition to the government plan, should be dropped, because certainly there was no objection from Quebec to the present Medicare proposals.

At page 33 there was some discussion as to whether the achievement of competent bilingualism in the schools definitely meant a neglect of other subjects on the curriculum or not. A number of examples were brought out whereby it might be quite possible to develop special competent instruction in English and French as well as in other subjects on the curriculum.

There were several other areas where the committee discussed the paper generally, but





I think those are the main comments on specific items in the paper.

There was very little time spent on the paper of the Economic and Fiscal sub-committee, although there was some discussion on the basic postulates adopted by the Economic and Fiscal sub-committee. The discussion was particularly centred on the question as to whether or not the sub-committee's position is valid when it said that no special arrangement should be granted to one province, or that fiscal arrangements made available to one province should be made available to all. There was no specific committee decision taken on this, although I think there was a feeling that circumstances might warrant special treatment being given to one or another province in different circumstances. I guess that is about it.

THE CHAIRMAN: Fine. Thanks very much. Harvey, do you want to tell us what we did before we watched the cartoons on coloured television?

MR. PERRY: I think I should say that our group was puzzled as to how broad the scope of a paper of this sort should be. One wonders, of course, how much one person can be expected to do within the relative limited time which Dr. Brady had available.

I think the result of a morning of



brain-storming in which we indulged, was a feeling that there were aspects which should be dealt with in a paper which purports to give a broad background picture.

The mechanics for dealing with some of the other subjects was not our particular concern, being economists who are theoretical, but we did feel that there should be more -- at least our own concept was that our federal system is passing through a period which reflects the strains of very rapid dynamic changes in our society and economy; and that while the issues dealt with in the paper were fundamental and almost perpetual, there were other things which should at least be brought out or should be kept in mind.

We thought, for example, of the sort of economic developments that have gone on in the last 15 or 20 years which have almost produced the result that not very long ago we had two depressed areas in this country, the Maritimes and the Prairies, and now we only have one virtually. This in itself has had some real impact on federal finances.

The increasing industrialization of the country, the (we hope) growing proportion of the effectiveness of fiscal policies for economic purposes, this sort of thing we felt should be touched on as part of a general survey of the





background.

The constitutional area: not being constitutional experts, we simply wondered whether there had been any developments in recent years which were of consequence to our federation. Incidentally, I do know of one. Some of the recent litigation on the powers regarding interest, for example, have been quite significant.

Again, we felt that whether or not anything had been developed in this area, that it would be important to say so.

We even talked for some time of the implications of social change in our federation. There was no doubt that there has been, in the jargon, a rising standard of expectations, and that this is reflected in many ways in new social legislation, much of it having quite profound financial implications at any rate within the federation. Increasing emphasis on welfare programmes. One wonders at what stage we find ourselves in this process, what the next stage is, what the ultimate objectives of it all are.

This sort of consideration affects very profoundly the distribution of responsibilities of government in this country. In fact I think one could almost say that the function of government is as far as possible to meet the expectations of the population, and the way in





which these are changing is an enormous influence on government and the distribution of powers.

We talked of something we put down nebulously here as national survival and independence. This is a mixture of things. There is a bit of sheer mechanics in the ability to rapidly assemble resources for an emergency.

Another aspect is our well known problem of maintaining some cultural independence, the means for this probably being largely internal methods of communication. Things of this sort are constantly with us, and certainly do not seem to be any less with us at the present time than they have ever been.

Another area we considered was the emergence of new challenges involving government control and co-operation. We spent some time, of all things, talking about water and the extent to which water was becoming a continental problem; the devices which have been put forward for developing a sort of continental water policy, and the way in which conflicts of government responsibilities so far seem to have frustrated some of these policies; thinking of this not so much as a new kind of challenge for government, but one which was getting pretty close to the very basics of life and which at least one member of our group felt was just as essential to solve as many of the other things



which are now regarded as important.

Another element which is quite obvious and inescapable is the increasing urbanization of society. We think in terms of what the B.N.A. Act says about Canada, not very long from now it may be important to think of what provincial-municipal statutes say about urban areas; that there are a whole host of problems involved here which have been quite obviously growing and growing over the last half century, and which are going to continue to grow at an enormous rate.

On the question of the sort of mechanics of federation, we felt that it was also quite important, although we realized, of course, that Dr. Brady is dealing with this in a separate study.

I imagine there were some other things that we went through this morning, but this was the kind of horizon that we had, and without being quite sure whether we were within a tolerable realm or not.

It all depends really on what the committee looks to in this background paper. I think our feeling was that a broad horizon was needed, a broader spectrum, with a little more attention to the very dynamic position in which we now find ourselves and in which we are going to find ourselves increasingly in the next decade or so.

THE CHAIRMAN: Thank you very much, Harvey.





I think we can go in a number of directions. Bearing in mind the objective in all of this, I was mentioning this morning in our group that if you had a chance to read that report of the Committee of Sixty in Montreal, one sees there, it seems to me, the type of approach that would be worthwhile for the government at this juncture.

I think that that report is slim in terms of all the material we have and all the discussion we have had. It seems to me it outlines fairly briefly certain aspirations without saying very much about the mechanics of approach. Nevertheless, they had apparently gone through the exercise of doing two things: first of all, establishing certain basic premises of a view of federalism and, secondly, establishing certain principles that follow from it.

We have a fairly exhaustive document now in the preliminary report of the economic and fiscal sub-committee. If we were able to do the same type of thing in the other areas, I think we might have a fairly comprehensive statement of views on the requirements of federalism, although I am not implying again, that there is any necessary assurance of arriving at consensus.

However, with that as the objective, at some point -- and I do not really want to attempt to steer this discussion too much because I think





our purpose was to have a good chewing over of a number of these points and try and come to grips with, first of all, what kind of a federal structure do we believe that we should be working to, and, in particular, from that, what types of positions might the government of Ontario take as a matter of initiative and as a matter of positive stand?

PROF. FOX: Mr. Chairman, do you think we can most fruitfully discuss the two papers together, moving back from one to the other, or do you think we should deal with them in succession?

THE CHAIRMAN: It is my own view we can, Paul, on the assumption that we are trying to grapple with ideas here, rather than to edit papers, so to speak; that the purpose of the papers is as a catalyst rather than as a strait-jacket.

PROF. FOX: Then speaking for myself, while I enjoyed reading both papers, I felt that I grasped more readily Dr. Brady's perhaps because this is my own field and also perhaps because in our committee we have been closer to some of the ideas; but in the paper prepared by the sub-committee on Economic and Fiscal matters, which I enjoyed reading and I would like to compliment you on, there are just a number of factual points that, as a non-economist, I do not feel I understand too thoroughly and upon which I should like some sort of explanation. Now, I may be in a minority of



one on this.

THE CHAIRMAN: Well, I think this would be useful.

PROF. FOX: It would be almost asking for a little lecture in explaining some of the material in it. I do not want to hold up the Committee if the other members all feel they grasp all the thing; but basic things like, for instance, in this table, appendices, page 3, using it as an example, we raised this in our sub-committee. I am so ignorant that I did not realize you could arrive at this kind or order of figures.

PROF. CREIGHTON: Where are you at now?

PROF. FOX: Appendices to page 3, Table I. Several members of our sub-committee, for instance, found it surprising that Saskatchewan had a per capita investment in business plant and equipment of \$475 million, is that, or thousands?

MR. STEVENSON: Dollars.

PROF. FOX: Or per capita, I am sorry. I had better put my glasses on. Ontario was much less. Also, I do not understand why 1964 was chosen. I realize that is probably the last year for a figure, but is that revealing -- would a trend over five years not perhaps have been more illuminating? These are not criticisms, but these are merely questions of fact I do not understand. And the one on the movement of





population, wherever that is, I guess on page 7, appendix 3.

THE CHAIRMAN: I think it would be useful to tackle some of these things, because it will lead us into other areas.

For example, there is a very important point of interpretation that we should deal with, and it was mentioned this morning in the committee in Professor Brady's paper on page 14 and 15; that certain judgments are made about opting-out, and the real question is here: are you talking about conditional form of opting-out such as you have in the Interim Measures Act now, or are you talking about more likely type of unconditional opting-out in the future, in which case the consequences would be very different? So let us by all means go into this by looking at some of the factual or quasi-factual points.

PROF. CREIGHTON: To start with, will you explain the difference between the two methods of opting-out?

THE CHAIRMAN: Professor Brady referred to the matter about the opting-out principle and what this might do both to federalism and to the relative strength of a given province.

Now, you will correct me if I am wrong, Don, but under the present arrangements for existing shared-cost programmes, the provinces have had the





option of opting-out, which means that they apply the same programme, but, rather than receiving 50 per cent of the cost from the federal government and undergoing certain other administrative responsibilities, they receive the fiscal equivalent, run their own programme, and then at the end of the year (they cannot improve themselves financially in this) they either get more or they turn back something in order that they be no better off or no worse off financially.

PROF. CREIGHTON: But they run their own programme.

THE CHAIRMAN: They run their own programme.

PROF. CREIGHTON: In the same designated area, if not in other areas.

THE CHAIRMAN: In the same area. It appears, however, that in the future if you had a shared-cost programme, Quebec at least, and perhaps other provinces would say: "We do not want to indulge in that particular programme, nor even in that particular area of activity, but we do not want to give up our share of the funds that would be forthcoming for it. We would like the funds, and we would like to use those funds to do whatever we choose according to our priorities".

PROF. CREIGHTON: This came up in our committee meeting because we were enquiring of the meaning of the word "block". Does that mean



that money was handed over in block, or does it mean it is appropriated not particularly in the detail to a specific programme, but in general to the area of the programme?

THE CHAIRMAN: You see, if you want to have a province, so to speak, doing its own programme, there are two ways you can do it. You can transfer to it the tax capacity through so many percentage points of the income tax, and let it do its own programme; or you could transfer a certain block of money and let it do its own programme.

Then such transference of the fiscal equivalent could be conditional or unconditional; so that the province would have to spend it conditionally on a certain area or certain programme, or could spend it unconditionally on hospitals, or education or whatever it chose.

Block grants could be designed theoretically in either way too. It could be a block grant transferred to the province on the understanding it would apply it only to health, but within health it might apply it to research or to this or that.

It could also be a block grant applied unconditionally of course, in that it would be just a transfer of funds to provincial treasury that it is still free to use as it wishes.

MR. STEVENSON: The term "block" I think is almost always used when it refers to block grants





for a specific spending area.

THE CHAIRMAN: It implies the first, and that is why this recent issue of the increased educational grant to the province of Quebec raised discussion and appeared somewhat enormous, because there you get a block grant turned over to Quebec.

PROF. CREIGHTON: Through tax abatement.

THE CHAIRMAN: No, because previously it had been through prior tax abatement, but that is the reason I raised it.

PROF. FOX: Block.

THE CHAIRMAN: Block of money, wasn't it?

DEAN LEDERMAN: This was the \$17 million university grant.

THE CHAIRMAN: Then Lesage would not necessarily use it for education or anything else; so in other words it became another interpretation, another aspect of unconditional block grant.

PROF. CREIGHTON: So that the reference, interpretation of block grant is at present under dispute.

THE CHAIRMAN: Yes.

PROF. CREIGHTON: As used in this paper.

THE CHAIRMAN: As Don said, it has always been assumed up to now that the meaning of block grant was a block grant for a certain area although freedom to operate within that area. Now, this



other thing, this was the importance of the particular situation because we have a new latitude of meaning, as it were.

PROF. McIVOR: There is really no logic, is there, for the description of block grant unless it is related to some block, area.

MR. STEVENSON: I understood you would call it a block grant if it were unconditional.

PROF. CREIGHTON: It is unfortunate terminology, because it seemed to people in our committee that "block" meant simply a lump payment, and that is really what it means.

PROF. McIVOR: I may say we used it within our paper and it has been generally used as Ian has said, to indicate an allocation of funds to a particular area, but not to the particular programme within that area.

THE CHAIRMAN: Yes.

DEAN LEDERMAN: There is an earlier paper to that effect.

MR. MAGONE: It would be all right if that word "conditional grant" were out of the picture and then you do make block grants, it would probably have one meaning, but out of the context means with conditions attached to it.

PROF. McIvor: The common interpretation of conditional grants is that they are grants conditioned upon their use for a specific programme.





MR. MAGONE: I understood that. A block grant is a grant with conditions attached to it.

PROF. McIVOR: A broader condition.

MR. MAGONE: In the general area.

PROF. McIVOR: That is right, more or less to a general area.

THE CHAIRMAN: You see, the background of this is that from time to time in the last few years the Government of Ontario has advocated block grants much because this, in a word, was a compromise between turning over percentage points of income or corporation tax to provinces and thereby interfering with the federal fiscal policy capacity, but at the same time getting money to the provinces in areas in which there was need.

MR. STEVENSON: Without the rigidity of the conditional grants.

THE CHAIRMAN: Without the rigidity the conditional block grant programme applied.

PROF. McIVOR: Minimizing infringement on provincial autonomy.

THE CHAIRMAN: Definitely. In other words, it was a compromise between getting the money, giving them certain flexibility, without making a permanent transference of taxing area to the province. Now it has become clear that this, as a device, at least in my judgment, it has become clear that this is a device that is not a device



that is going to have any acceptance in Quebec.

We had the recent university grant precedent. And if one is tempted to say: "Oh, yes, but this is because education is a special problem", I would refer you to the meeting last December in Ottawa when, under extended pressure from a number of provinces, the federal government agreed to extend capital grants for hospital construction from the present terminal date of 1968 to 1970; whereupon the Minister of Health from Quebec said: "Well, in that case, we will take the grants unconditionally, but we won't necessarily apply them to hospitals, because we have other priorities". After that there was a certain political compromise reached pro tem in the committee to save a bit of public expense, but nonetheless the discussions went on, and it was quite clear what the intention was there. So it is not just a question of the special needs of education; this has been generalized to that degree.

PROF. BRADY: It ought to be said, Mr. Chairman, that the Quebec usage is not an additional usage for the term "block grant".

THE CHAIRMAN: By no means.

PROF. BRADY: The term "block grant" is well known. It is used in the United States, and it has been used actually in Britain with





respect to municipalities, and it has that meaning that was described -- a grant in an area of service but not conditional with respect to details in that service.

PROF. McIVOR: In effect what Quebec is trying to do is turn block grants into unconditional grants.

THE CHAIRMAN: That is right.

DEAN LEDERMAN: There are two species of conditional grant -- the detailed one and the general one, and the term "block grant" is used for the general one.

THE CHAIRMAN: Then, you see, if you make all block grants unconditional, you are coming up against the obvious question: then what determines the size and the priorities of the block grant? Unless it is given for something, how do you decide what is required?

PROF. CREIGHTON: The sky is the limit.

THE CHAIRMAN: That is right. What is the criteria?

PROF. McIVOR: It seems the term "block" makes just nonsense unless it is related to some broad area.

DEAN LEDERMAN: It has to have a definition clause.

PROF. MEISEL: Does it not mean in this context it is an amount which is determined by the



purpose to which equivalent funds would be given to other provinces, but the one province that is opting-out gets the same amount as the proportion, and uses this sum in whichever way it wishes? To it, it is unconditional. To the other provinces it is conditional upon what the other provinces would spend in the field of education or what-have-you.

PROF. CREIGHTON: Exactly.

PROF. MEISEL: That means, of course, the other provinces not opting-out or there would be no basis or criteria.

THE CHAIRMAN: That is right, there has to be at least one province against which the normal scale could be ---

PROF. CREIGHTON: This is absurd.

THE CHAIRMAN: Take the question of education. Supposing this (it has never happened I am sure) supposing the federal government at the present time and, as we all know, under great public pressure and under its own persuasion to provide greater assistance to universities, they decide they are going to make capital grants to universities, but provinces decide to take that money and then to apply it to something else. The universities would not like it very much, would they?

PROF. CREIGHTON: They would go for the telephone system.

DEAN LEDERMAN: This is the problem, one of





the basic things that is bothering us, Mr. Chairman. The implications of opting-out, and particularly with this new twist that the Province of Quebec is giving, this seems to be leaning towards disintegration. You can go a long way within the existing constitutional framework. All this is going on and could go on by agreement within the range of the existing financial and taxing powers. The mere fact that you reach *reductio ad absurdum* if everybody opts-out, means that one ought to look again at whether the first opting-out should be allowed.

THE CHAIRMAN: Let me say, as I was telling in committee this morning, that this thing has subtlety, that is even more profound, and I am not being entirely hypothetical here. Supposing the federal government agreed to give money to the provinces to support education of the following kind: that it was to be used for in-plant training of workmen, for up-grading and for industrial training, on-the-job training and so on; and the province took that money but then decided under its own terms to treat it unconditionally and to use it not for in-plant training but for capital write-offs as an incentive to attract industry, so that you get industry attracted to province X rather than province Y through that medium. Then you have got an entirely new type of



situation created which is going to create problems economically in terms of breaking the country into small units. So there are a lot of things can go on.

PROF. FOX: Theoretically, that province that had given in-service training to its workers would have a more skilled labour force, and that would offset the capital write-off the other province made, *ceteris parabus*.

PROF. CREIGHTON: Unless there is administrative diversity within provinces.

THE CHAIRMAN: Except that business men are not always governed by *ceteris parabus* rules.

PROF. FOX: But John has pointed out also, all the workers can then migrate to the province with the capital write-offs.

THE CHAIRMAN: Particularly if they can live on one side and go across the river to the job.

PROF. FOX: That is right.

THE CHAIRMAN: As they do between Windsor and Detroit in another sense.

MR. STEVENSON: I had one thing, Mr. Chairman, that perhaps you did not mention. This is that the opting-out possibility was only open to a specific number of shared-cost programmes, most of them in the welfare or medical field, and almost all of them programmes which had been operated for a number of years so that a pattern had already been





established whereby one could calculate the trend of expenditures, and also programmes where sufficient administrative force had been built up that there was very little chance of the programmes being disbanded or radically changed if a province took over completely administration.

Also, all of the programmes which were "opt-outable" were programmes where a provincial jurisdiction was recognized by the federal government.

There are a number of share-cost programmes where the opting-out alternative is not available, and this applies to most of the programmes such as Trans-Canada Highway, programmes of a unique character which had a definite termination date, programmes of largely a capital nature which the federal government felt that perhaps for the unity of Canada or for some other reason it had to step in itself.

Really the only programmes where the opting-out provision was made available were programmes where there was an understanding that after an interim period the provinces should be given the right, if they wanted, to run the programmes completely on their own.

PROF. FOX: The only trouble with that is that those programmes which are capable of being opted-out of were the most expensive programmes.



PROF. CREIGHTON: And most long-run.  
The others were all terminal.

MR. STEVENSON: Not all the others were terminal, but most of them.

PROF. CREIGHTON: A good many of them were.

THE CHAIRMAN: They were specific projects.

PROF. CREIGHTON: Yes.

THE CHAIRMAN: Terminal projects.

PROF. CREIGHTON: In the sense that these were long-run.

MR. PERRY: I think we are overlooking something very important here. I cannot conceive of the federal government still, in the year 2000, granting a credit of 44 per cent from its income tax to Quebec. I think the self-policing factor in opting-out is going to be the jeopardy in which the province puts itself in opting-out. It is certainly going to have to live with the expenditure very long once it has taken it on, but there is no guarantee in the world that the federal government is going to continue to give the tax equivalent, and I cannot imagine any federal government entering into a contract that in perpetuity it would give a tax equivalent simply because a province continues for another hundred years to carry on a certain programme. If in 1970, supposing

THE CHAIRMAN: Harvey, if in 1970, supposing all these programmes were due to run out in 1970 and then the 44 ---





MR. PERRY: This is meaning the deal is off as far as the federal government is concerned.

THE CHAIRMAN: And income tax reverts to the federal government and you are back to where you started.

MR. PERRY: You start all over again.

PROF. MEISEL: Isn't perhaps what is likely to happen, that we shall have to deal with these problems on an ad hoc basis as the sort of locus of power shifts, now away from it and twenty years later back to it; that this is in a sense a very flexible kind of ad hoc series of processes that you can use to adapt to changing circumstances without getting wedded to a terribly rigid formula that we won't be able to change?

PROF. McWHINNEY: In a sense, the availability of tax revenues will determine where power shifts and vice versa; they are inter-related.

The courts have rather waffled on this issue of division of taxing powers between the Dominion and the provinces. They have accepted the pragmatic approach, but I am not sure you can be so absolute about speaking about the federal government's power even if it wishes to control the distribution, constitutional power to control distribution of income tax between the provinces and itself. In a way it certainly rests in making conclusions whether you possibly lower the rate, regarding tax as



undesirable, whether or not to just again turn to your considerations of questions of economic advantage.

One of the difficulties is where to begin. Your constitutional law to some extent has followed on economic considerations in recent years when it need not have done so in a way. You got your a priori institutional solutions which tended to determine the economic considerations.

DEAN LEDERMAN: I am a layman in economics but the inference I get from the economic paper and something that I have thought was so for a long time: the tax harvest of the federal government is always going to be -- at least it is now and probably for the foreseeable future it will be -- greater than the cost of its responsibilities, and yet it has the taxing power that gives it that superior tax harvest because these are controls on the economy that it must have if it is going to be effective as a national economic authority.

It is vice versa with the provinces. They have a list of responsibilities that are more extensive than the tax harvest they can bring in with the taxing powers that it is appropriate to leave them now if you are going to have a national economy; so there are always going to be transfer payments, and there is always the issue of the terms on which transfer payments are made.

Now, from the very beginning there have been





unconditional subsidies, transfer payments there, and there were some special deals about unconditional subsidies too. It soon got away from the simple per capita formula, as everyone knows, but still unconditional.

Then the conditional grant appeared, conditional in detail about programmes; and now opting-out has reared its head and block grants in the sense of very general conditions, the whole question of control for transfer payments, given the inevitability which is always with us, but what I am wondering is whether the opting-out is too dangerous a type of thing to allow.

PROF. BRADY: It develops, after all, because of the extension of the federal activity in the provincial field, at least to a great extent. Quebec took, I suppose, the natural line: it resented this intrusion, it complained about the intrusions in the past. Every time that a conditional grant programme was initiated, from the early ones of the 1920's -- indeed 1918 -- you had a Quebec protest, and the opting-out idea is really Quebec's kind of response to this federal development or activity.

I suppose one result may be a retreat from the kind of services programme that the federal government multiplied in the years after World War II and a confining of its activity much more to what are



the more clearly traditional jurisdictions or lines of jurisdiction as they have been decided on in the courts in the past.

I still think, of course, that the transfer payments would be necessary, because certainly some provinces would not be able to finance their services without transfer payments. Ontario might get along very well, but you cannot think, for example, of the Maritime provinces getting along very well without contracting the kind of services with which they attempt to provide their citizens.

DEAN LEDERMAN: That is another reason why the transfer payments will always be with us, the inequalities between different regions.

MR. MAGONE: Mr. Chairman, arising out of what Professor Brady says, there is this very practical consideration that we discussed this morning on page 19 of the Economic and Fiscal sub-committee report at the bottom of the page.

"Another field that is 'shared',  
 "in the sense that both provincial  
 "and federal governments levy charges,  
 "is the consumption or sales tax  
 "area. The federal government now  
 "levies a general manufacturer's tax  
 "of 11 per cent .... and the  
 "provinces levy retail sales taxes  
 "of 4 per cent to 6 per cent"





Now, the fact is the 11 per cent tax imposed by the federal government is a tax on the manufacturer's price of the article, and the province's tax is a retail sales tax on the write-up of that amount at the retail level, plus the 11 per cent that is paid to the federal government.

To follow on on page 20:

"In the view of the sub-committee  
"there is no reason that sharing of  
"tax sources should not extend to  
"consumption taxes. The federal  
"government could withdraw gradually  
"from the sales tax area, leaving  
"room for increased provincial sales  
"tax."

In other words, the differential between 11 per cent and 6 per cent or 4 or 5, disappears entirely, and the federal tax is really equivalent probably to about 4 or 5 per cent.

MR. PERRY: No, sir; eight per cent almost in fact.

MR. MAGONE: Even taking into consideration 11 per cent? I don't know, because there are many things that double in cost between the manufacturer and the consumer. There is jobber's write-up and then wholesaler's write-up to the jobber and the jobber's write-up to the retailer



and the retailer's write-up to the consumer .

MR. PERRY: The easy way to do it is to derive a sort of tax rate applied to retail sales which would produce the same revenue as the 11 per cent.

MR. MAGONE: Higher sales tax, as I put it to some of the boys this morning. If you were Prime Minister of this province, would you rather receive the equivalent in cash from the Dominion government, or would you rather take upon yourself the onus of imposing a 10 or 12 per cent tax to make up that difference?

MR. PERRY: This is on the assumption that is the choice, but do they have the choice? Possibly the only way you could get more revenue is by increasing your sales tax, if the federal government was willing to reduce its sales tax..

DEAN LEDERMAN: So that the price of goods would not change.

MR. MAGONE: One is hidden and the other is not. Mind you, it is a political question.

MR. PERRY: It is interesting but I do not think significant to the argument. The fact is it is a tax on goods. It could be reduced. At the same time the other tax could be increased.

PROF. McWHINNEY: It is significant in this sense. You are dealing with an area where really your legal powers are judicial glosses created to





positive law provisions, that are not really favourable to the provinces. There is no reason why judicial glosses should not be removed.

The present division in 91 and 92 is very unfavourable to the provinces, if you are speaking in comparative federal terms, compared to other federal systems. The provincial power of direct taxation is not a very valuable power if the federal government gets into the direct taxation field too, as it does.

It seemed to me that the thrust of some of the recommendations in the economic report are really for a re-allocation of constitutional powers, and I think Mr. Magone is right to raise the issue then: is this a political device you are suggesting? The consumer tax area is an area of grave constitutional import as far as the provinces are concerned.

MR. PERRY: In Norway they have a 14 per cent retail sales tax.

PROF. McWHINNEY: No other federal system -- if you are speaking of other English-speaking systems, in general you do not have the same problems we have because of the particular divisions of 91 and 92. The affirmative grant of taxing power to the provinces is not very happy from the provincial viewpoint.

MR. PERRY: I think we tried to avoid political



issues, not being politicians and feeling somewhat inadequate in this area. The fact is we were trying to find a balanced programme of tax transfers.

Now, opting-out accomplishes nothing: revenue is the same before as after. Something has to be done beyond that. There has to be a real transfer of resources from federal to provincial governments.

Our feeling was that the transfer had gone far enough on personal income tax (in Quebec it may be as much as a half); that it had now to develop into other areas. Therefore we suggested both the corporation tax and the sales tax. Now, if people don't like the sales tax ---

MR. MAGONE: Do you know anybody that does?

MR. PERRY: People of at least eight provinces don't seem to mind very much. As I say, we were not putting forth political considerations.

PROF. McWHINNEY: You are putting forth economic considerations with very definite constitutional law implications as part of the thrust.

MR. PERRY: No constitutional law implications here, because the provinces have full powers to impose retail sales tax, and the federal government has full powers to reduce its tax.

PROF. McWHINNEY: The province has power to





impose direct taxation, and that is subject now to judicial interpretation, and you are going a certain way on the assumption of this interpretation being continued.

MR. PERRY: They have not been questioned for at least 15 years, I think.

THE CHAIRMAN: Your question was, as recommended in here, it is implied that the federal government would not end up with 11 per cent sales tax with the direct 4 per cent sales tax, and want to maintain the indirect tax form of it.

MR. PERRY: I know what provincial politicians would like to do, they would like to have 10 or 12 per cent indirect retail sales tax that no one ever heard of or saw again. This is perfectly obvious.

We are trying to discuss just the mechanics of transfer here of revenue from the federal to the provincial government.

DEAN LEDERMAN: I would agree with Mr. Perry that the only constitutional problem here is one of method of collection, and in one way or another you can get your tax, both of them can do.

This is one thing I would like to ask economists about the economy. Is the consumption tax a critical tax for control of the economy? Is this one of the things the federal Court can deal



with in Quebec?

MR. PERRY: Are you going to give a lecture, Mac?

MR. MAGONE: How soon would they re-impose it? Who knows. While this government is in force, Ontario would have to impose 12 per cent or whatever -- X dollars, X per cent, and the next government come in and impose sales tax again. These are practical considerations, Mr. Perry.

MR. PERRY: You are quite properly interested in practical politics. We were not. We were trying to put forward a programme that could be adopted by the provincial government, or argument.

PROF. McIVOR: There is the economic dilemma here, as you have outlined, that you were saying that apparently the federal government is in a situation where its revenue system is to go to produce a surplus over expenditure requirements. The first thing to say about that, I think, is that the federal government recently have been displaying a somewhat alarming tendency to take on additional expenditure responsibilities, and this cannot longer be the case.

MR. PERRY: Considerable ingenuity directed to avoiding this.

PROF. McIVOR: That is right, yes. If the federal government is going to generate a surplus and we have the provinces and municipalities in a





deficit situation then I do not think the point that you raise about the necessity for fiscal control remaining primarily with the central government, precludes any shifting of tax authority, some additional shifting of tax authority to the provincial governments.

7       The problem here is: which are the tax sources which are most essential for exercise by the federal government for purposes of security and so on?

I think there is room for some transfer of personal income tax. The sub-committee arrived at this view. There is room for some transfer of personal income tax, a greater share to the provincial governments; but, in answer to your question, this is perhaps the prime tax so far as stabilization effects are concerned, so this was why we said that we thought if it went much beyond 50 per cent this would be probably weakening the power of fiscal control by the federal government.

We think there is considerable room for greater share of the corporate income tax to be directed towards provinces; and so far as stabilization was concerned the sales tax (in answer to your question) seems to be of relatively minor significance.

So we are suggesting that if this surplus position continues, and given a deficit position of



the provinces, we think there could be significant shifting of tax revenues to the provinces, but in such a way, by primary emphasis on the supplementary use of the corporate income tax and the sales tax which has been used virtually not at all to date, so that we could achieve this object and still keep an adequate amount of fiscal power with the central government.

Now, there will always be fiscal transfers, as everyone agrees, for various reasons, but a substantial move can be made to reducing the scope of these transfers.

DEAN LEDERMAN: I haven't much idea what is involved.

PROF. MEISEL: Mr. Chairman, could I ask for another lesson in economics, please, and a much more simple one? It seems to me that the problem is that the federal government requires a certain amount of funds to carry on its responsibilities. The committee on Economic and Fiscal matters argued that it seems that at the present time about 50 per cent of the income tax is the maximum that it can let go to the provinces, if the federal government is going to have the resources it needs, but 50 per cent is a proportion.

What puzzles me is how you can arrive at a proportion without knowing what the total income





tax intake can be. We could double the rate of income tax payment now, which would give both the federal and the provincial governments a considerably higher amount of resources. So how can you settle on a proportion as being what the federal government needs, when you don't know what the total cake is going to be?

PROF. CREIGHTON: It is not for the total cake. The proportion of the total cake is the economic control, isn't it, that you are after?

MR. PERRY: We are not looking at personal income tax as revenue source, rather as a very flexible means of economic influence.

PROF. MEISEL: I see.

MR. PERRY: Simply making the judgment that one must have control over at least half the tax, to continue to have much effect with it.

PROF. MEISEL: This is not because of the amount of money coming in to meet the payrolls and so on, but rather the control over the economy.

THE CHAIRMAN: Canadian cyclical policy.

MR. PERRY: If the federal government were squeezed to 10 per cent of the tax, then changes would have to be cataclysmic in order to have much effect.

DEAN LEDERMAN: Why is the corporation income tax less significant than the personal?



MR. PERRY: That is a pretty long story.

DEAN LEDERMAN: Does not bear directly on consumption, I suppose?

PROF. CREIGHTON: You set up a maximum in the corporate income tax.

MR. PERRY: We say about a third. They have quite different effects. Corporate income tax, it is now felt, to the extent it has any influence at all, mainly affects long run capital investment plans of corporations.

I have even had corporation people challenge me on this; that they had enough liquidity in their flow of funds for the next five years that even if corporation income tax were increased 50 per cent, they would still go ahead with their programme; but this is the main element for which it is used and has some significance.

The personal income tax is felt to be more effective for shorter range influence on consumption.

The real truth of the matter is that in an ideal system, as the Rowell-Sirois Commission suggests, that both of these taxes should be completely in the control of the federal government. They are very strong fiscal instruments.

The kind of thing we are developing in Canada is a concession to the revenue realities of the provincial governments, and not to the economic norms at all.



PROF. CREIGHTON: It impairs the authority or influence which the federal government ought to have.

MR. PERRY: It does.

PROF. McIVOR: It amounts to a gross over-simplification, I suppose, that the stabilization problem is a short run problem which depends primarily, I suppose, on level of consumption expenditures, and these react fairly promptly to changes in personal income tax.

The longer-run problems of economic growth is related to the investment capacity and so on, and this is more directly related to changes in corporate income tax.

If it is stabilization you are interested in, this is what leads you to the personal income tax changes as the major instrument; for longer-run approaches it is perhaps corporate income tax.

DEAN LEDERMAN: For the simple reason of geography and not because of any doctrinary elements here, corporation income tax and personal can be both more efficient and more fair when they are collected by the national authority in the whole territory of the country. In the provinces, with their geographic limits, individuals and influences are operating in two or three or all of the provinces, and they can only deal with the aspect that is going on in their province; whereas the





federal tax, I should think, could be both more efficient and more fair.

PROF. McWHINNEY: So it could be the other way and most other federal systems it is; it is a relative difference, I think.

PROF. BRADY: I wonder, would it be proper to question that one cannot deny the potential role of the income tax in the sense described in stabilizing the economy; but really how far does the federal government pursue a stabilization policy when it regulates rates of the income tax? In other words, is it not influenced by its revenue considerations and so on?

The strong argument has always been that the income tax is vital to the federal government because it is a great agency of stabilization. Now, that is a fine doctrine. Is it also an actual fact?

MR. PERRY: It has not been in recent years, but we hope it will be again.

THE CHAIRMAN: You will know that, Professor Brady, when the next income tax is paid, I guess, as the result of the last budget.

MR. PERRY: I would say the last budget is demonstrative of a new interest in stability, and it is a pretty cleverly designed budget.

PROF. FOX: But if it is a means for stabilization, then surely as you diminish the



percentage of the total income taxes taken by the federal government, you diminish the instrument of your control.

MR. PERRY: Certainly.

PROF. FOX: Now, if you take 50 per cent, it would seem to me you are getting down to the point where your control might be minimal. Let us assume the federal government feels, as it does from time to time, that we must clamp down on the economy a bit and it raises its rate a bit: what is to prevent a "bad man" in the province, in terms of the collection of taxes, from lowering their rate of income tax so that it offsets the stabilization factor that you are achieving by the federal rate?

MR. PERRY: Nothing to prevent it at all, and this is why it is so important that there be increased co-operation and consultation between levels of government in this country, and this is developing.

PROF. FOX: That was the point I thought might have been explored a bit further. Maybe you have in your thinking, though I do not think it was in the essay that was presented. That is where one can think further in terms of developing an effective instrument of consultation and agreement.

PROF. McIVOR: We certainly tried to emphasize the necessity of more effective federal-





8 provincial co-operation than has prevailed in the past.

PROF. FOX: It seems to me though almost the necessary accompaniment of the policy that you are suggesting here, does it not? In other words, if you are thinking of the federal government getting out of the income tax to an increased degree, you must think of it getting into consultation and agreement with the provinces to gain your same degree of stabilization.

PROF. McIVOR: I think you can argue, Paul, that it may be in the interests of a province, and certainly a growth-rate province like Ontario, it may be in its own interests as well as the national interest to pursue some sort of counter-cyclical stabilization policy on its own; and if economic conditions are such that the federal government is being led to take such and such action, it may very well be the case that the province will conclude it should be moving in the same direction.

I think you can over-emphasize the problem here by arguing that the chances are 50-50 that if the Federal Government does one thing, the Province of Ontario or Quebec is going to do the other. I think increasingly this may not be so; that even if there were no greatly improved mechanism of co-operation, self-interest might lead to something on co-ordination of tax action,



but this is no argument for not having more effective consultation.

PROF. FOX: Without knowing anything about it, I would assume, as a layman, it might be quite the contrary; because you would have different parts of the country, namely the provinces, at different stages of economic growth. Therefore you might have several areas of provinces interested in maximizing economic growth by providing a more fluid and inflationary period; where the Federal Government, in the interests of another sector of the economy with mature growth, might be interested in clamping down. I would deduce really you might just as well have the second situation as the one you have outlined.

PROF. McIVOR: It may well be, although I would think that what the Federal Government regarded as the common interest in control of stabilization policy, might well be very closely related to the general level of economic conditions that prevail in the larger and economically most significant provinces, such as Ontario and Quebec.

I think that the interests of Ontario and Quebec might correspond much more closely with what the Federal Government is doing, than the interests of some of the smaller provinces, such as Newfoundland.



PROF. FOX: You would agree that Ontario's interest and Quebec's interest in expansion of the economy do not coincide.

PROF. McIVOR: In a broad sense I think they might. Cyclically I think they probably do. I would think Quebec would have run into this problem and it may be different from Ontario, but so far as cyclical policy is concerned, I would think there is considerable identity of interest here.

PROF. CREIGHTON: You used the word "growth" as you explained. You mean increased productivity?

PROF. FOX: Can I follow this up by asking for another lesson in economics? To what extent do we know that the Keynesian hypotheses are still valid? In other words, do we really need this measure of stabilization by means of control of income tax and so on?

PROF. BRADY: In a period of growth.

PROF. FOX: We do need it in a period of growth?

PROF. BRADY: I am just throwing that in, in a period of growth. Do we need it to some extent?

MR. PERRY: I think we are making the fault here of both settling on the one very narrow aspects of the whole fiscal system. In the last





budget, for example, to the extent that changes were spectacular, they were on the tax side, but in fact the more important changes were on the expenditure side.

The Tax Foundation have assessed the whole thing and the impact of the tax changes in the complete fiscal area is \$250 or \$300 million or something like that, but the expenditure changes which are hardly mentioned, are going to be more than that. Possibly the impact is something like \$700 million. There is a lot of postponement of little things here and there, few of which get any mention at all, but you really do not hit on any one particular device. In fact you do not limit yourself to either your tax or your expenditure policies. You use monetary policy, debt management, all sorts of things.

PROF. McIVOR: I would say, Paul, so far as the expenditure side of government fiscal conditions are concerned that the major significant expenditures are within the -- as far as cyclical sections are concerned -- major expenditures are within the jurisdiction of the provinces and the municipalities, and this does emphasize the need for increasingly close co-ordination of policy, if Canadian cyclical measures are going to be effective.

In connection with Professor Brady's



observation, I think it is quite true that if you look through the 1950's and early 1960's, there is nothing to give anyone any great confidence that the Federal Government would use its tax powers very effectively as a stabilizing device; but one can only hope that by setting up or trying to maintain the possibility of effective action, that the federal Government, let us say, will have to use it more effectively than they have in the past.

MR. PERRY: The post war experience was, rather a shattering one. There were several years in which there was quite active fiscal policy, and then the idea developed that perhaps the best thing was a relatively stable fiscal system in which you allowed your so-called built-in stabilizers to do the job for you. They actually still are the most important element, simply because they counteract forces within the economy without being changed.

In addition you can have discretionary policies which aid or abet or reinforce the kind of things that are happening anyway. This is what has been almost entirely forgotten in recent years by the Federal Government.

As to Paul's basic question as to whether Keynes is still in repute, I think it has been demonstrated more clearly every day that he is;





that the percentage of G.N.P. which governments now spend is higher than it has ever been before, and by the same token our prosperity is higher.

PROF. FOX: I was thinking of the Keynes argument about the control of the income tax rate, because if this is less significant than the expenditure side which you now consider, we do not really need to concern ourselves constantly about what cut the provinces and Federal Government should have of income tax, if it is not a system of control of the economy.

MR. PERRY: I would not agree to that. I think one has to assume that all these devices are going to have to be used in order to have an effective package. The trouble with the expenditure side is generally its inflexibility.

PROF. McIVOR: I think that if there is any serious problem of stabilization, they certainly require all possible effective action both on the tax side and on variations in expenditure; and beyond this the fiscal measures, as Harvey suggests, in monetary policy and in other areas that the government can bring to bear on the whole thing.

PROF. MEISEL: To what extent is the rate of growth, say, pressure towards inflation, to what extent are these things independently taking place in Canada; to what extent are they simply shadows



or mirror images of what happens in the United States where they are finalized or ---

9 PROF. McIVOR: I think in the economy of Canada there are very strong pressures that are imported, for example, price inflation; or, on the other hand, if we have a recession in the United States there are very strong pressures towards the transmitting of these recession influences in the Canadian economy. This, I think, just points up the fact that we are not really masters of our own economic performance, but it emphasizes the need for having the most sensible domestic or internal fiscal and other policies that we can get, to minimize the impact of these external pressures.

MR. PERRY: I think they make the need greater than otherwise would be. Sometimes we have to counteract forces which, if we were isolated, we would not be involved in at all.

P PROF. McIVOR: One concluding point here may be that whereas in the 1950's we depended a fair amount on monetary policy -- tighter or easier credit, level of interest rate and so on-- to try and cope with our problems of instability, we are getting more and more into a strait jacket so far as exercise of monetary policy where our domestic requirements are concerned, because of our balance of payments problems. This emphasizes



the fact that we may have to depend much more upon fiscal policies for stabilization than we have in the past.

PROF. FOX: You still feel 50 per cent of the income tax would provide you with adequate stabilization?

PROF. McIVOR: 50 per cent is just a number. I honestly cannot say 50 or 55 per cent. We just arrived at the position that if the provinces did not claim more than 50 per cent of the income tax field through this device of opting-out and what-not, that, given the other fiscal resources of the Federal Government we thought this would not be a critical weakness in their exercise of control.

MR. PERRY: I do not think many people realize how far down the road we are here already, compared to other federations.

In the United States the state just makes out as best it can. It gets no concession or tax abatement or anything whatsoever from the Federal Government. It gets a good many grants which are not obtained here, but they have not even started on the system of integration of state and federal tax.

In Australia the states subsist on hand-outs from the Commonwealth.

I thought that even the conditions we had





here ten years ago were the ultimate, so that we have gone even already a long way down the road to making quite substantial transfers of tax payments from the central to the regional governments; and you really begin to wonder how far this can go without seriously weakening the national government, with no one very categorical where the line is.

PROF. FOX: Can I ask another question for information? How effective are consumption taxes considered to be as instruments of stabilization? How do they compare to income tax?

MR. PERRY: Way, way down the line.

PROF. McIVOR: I do not think any government has considered this to be a serious instrument of stabilization.

PROF. CREIGHTON: Are they not being used more now than they were?

MR. PERRY: For revenue purposes, not for economic purposes.

PROF. FOX: May I ask one last question on the consumption taxes, reverting to what you said quite a bit earlier about that and the possibility of the Federal Government getting out of such taxes and allowing the provinces to have a bigger share.

How would you allow for the fact that the provinces that are wealthy and have larger economies



or larger G.N.P.'s, would thereby collect greater amounts of money than the poorer provinces which have a smaller pot to skim off?

MR. PERRY: I think this is outside the sort of precise measurements we are making now, equalization payments and all that sort of thing.

THE CHAIRMAN: You would have to take that into account in the equalization formula.

MR. PERRY: It would be part of the see-saw battle which goes on about who has what tax sources, and it is quite evident that the need of the provinces is going to be relatively greater in the future than the Federal Government.

PROF. McIVOR: The fact is, Paul, that the per capita yield from sales tax, let us say, for one percentage point of sales tax, the per capita yields among the various provinces are much more even than in the case of almost any other tax.

MR. PERRY: Simply because consumption is fairly stable and reasonably uniform across the country.

THE CHAIRMAN: Would anyone like to break a few minutes, to give our reporter some relief and to have tea.

--- Short recess.

THE CHAIRMAN: Do you want to continue in the economic vein, or would you like to shift into





another channel?

PROF. BRADY: I wonder, Mr. Chairman, if we might have some comments from members of other groups than the Cultural Affairs one, on some of these other questions like facing the problem of the French fact and debating measures with respect to it?

PROF. CREIGHTON: Mr. Chairman, had not the French topic better be left to the beginning of a new day, or at least such a radical departure from the one we have been discussing.

PROF. BRADY: Perhaps that would be best. It is getting late.

MR. PERRY: I just wonder, Mr. Chairman, if we have exhausted opting-out. I am not sure what there is left to say about it but I have a feeling myself that it is almost a self-terminating feature in the present arrangements perhaps and need not be too much feared because of this.

PROF. BRADY: How do you mean?

PROF. PERRY: Perhaps in the sense of the barriers that are suggested.

PROF. CREIGHTON: Is there not greater political pressure to continue these same arrangements or something very comparable to them, and won't the Federal Government be very susceptible to this pressure, which is the reason they have given us.

MR. PERRY: Perhaps they will be in '75. Will they in '80? How long does this sort of



thing have any validity? I just cannot see it as a permanent part of our federal system.

PROF. McWHINNEY: It is responsible in part, though, is it not, to your constitutional structure. If we change, presumably, part of the *raison d'etre*, opting-out would disappear, would it not? In other words, opting-out might well be disposed of as a convenience in the government arrangements for softening apparent rigidities in the federal system, if there were, for example, a re-writing of 91 and 92, as various people proposed.

So in a way part of your answers really here depend on your answers to Professor Brady's questions raised.

PROF. MEISEL: Mr. Chairman, I think also that this really touches on a very fundamental problem which the report of the committee raised, namely the non-economic aspects of the whole economic problem.

It seems to me that Professor Creighton, I think, was quite right in suggesting that the kind of arrangements that the Quebec representatives particularly may want to see made with the Federal Government, will be based precisely on the notion that Canada is a country composed not only of ten provinces, but also of the French element and the others who are assumed very often to speak with one voice on the part of Quebec spokesmen; and that



Quebec speakers very often now say that what they would like to see is a lot of arrangements made on the part of the nine other provinces of the non-French matters, with Quebec making its own arrangements which are somewhat different.

If this is the position that is going to be taken, there will be demands, it seems to me, for certain kinds of arrangements which will be agreeable to nine provinces or probably eight or seven, but not to Quebec; and that Quebec will continue to want to opt-out in that sense of these arrangements which will be suitable for the other provinces but not to Quebec.

PROF. CONWAY: How valid is that assumption in actual point of fact? It is generally Quebec, I suspect, and it is also made in other parts of Canada too. We may not like it, may not want it, but the notion that there is French Canada, Quebec, and the others -- I wonder how much that is a working hypothesis in the minds of Canadians, both French and English-speaking Canada?

10 Quite apart from the merits of it, if this is so as you say, is this not going to be a continuing circumstance in our politics?

MR. PERRY: I suppose we just assume that everything that could be opted-out of under the present arrangements is taken into effect, in other words, that every province were to opt-out of





the existing programmes, which would mean there would be 44 per cent of the personal income tax <sup>feasible</sup> would become a provincial tax: what is the position after that if the Federal Government introduces any new programme and that it must be prepared for any province to substitute for a grant, which might be envisaged under the programme, the fiscal equivalent in provincial tax sources?

I just feel that the Federal Government is really in an iron box in this sort of situation; that it is not very likely to introduce any new programmes that would mean completely eroding its own tax system.

THE CHAIRMAN: Have we worked out how many points the Medicare system would involve in addition, because that is in the cards.

MR. STEVENSON: Yes, it is 20 points or something. I have forgotten exactly.

MR. PERRY: Then you are up to two-thirds then with Medicare thrown in.

THE CHAIRMAN: Have Medicare in and have the other things thrown in and you would be up to 60 or 64.

DEAN LEDERMAN: Moreover, two points of income tax from Quebec or Ontario would be a lot more than two points in Manitoba.

MR. PERRY: I think it is part of the problem in the poorer provinces a large grant has to be



paid in addition. To the extent that the Federal Government is transferring its own revenues over it by tax transfers, you are up to two-thirds on the books right now, really, are you not?

PROF. CREIGHTON: You would exceed your minimum right now.

MR. PERRY: So I think we are about at the end of the road. I do not know how the Federal Government can go further.

PROF. MEISEL: If we assume we are continuing to use personal tax abatement almost exclusively.

MR. PERRY: That is right, one cannot switch to other taxes, but there is surely an end there too. In other words, I am wondering whether this is a permanent long-run device.

PROF. MEISEL: What about another possibility? Is it too much to expect that if the control of the Federal Government over income tax for purposes of manipulating the economy is reduced so much that it will not be able to operate very effectively; that some agreement with the provincial governments can be reached about the way in which these resources are spent, not by a decision of the central government but by a series of conferences in which the general fiscal policy of the government





is defined by really Dominion and Provincial actions? Is this utterly insane, do you think?

PROF. CREIGHTON: This is what you require, don't you?

MR. PERRY: It becomes all the more essential.

PROF. CREIGHTON: It becomes all the more essential, but is it sufficient?

DEAN LEDERMAN: The trouble, it seems to me, with co-operative federalism is that two parties are supposed to come together in the bargain, you always bargain from the bargaining position, and in the argument of all bargaining of that kind, the question is what happens if you cannot agree, who has the last word?

There you get back to the basic guidelines in the basic distribution of power. What if you don't agree, what happens?

For instance, I think this is unrealistic, but I think Mr. Lesage got his way on the pension plan because he was able to say: "I can do this anyway, whether you go along with me or not".

To the poorer provinces on the taxation agreements, the Federal Government has always been able to say, at least to the poorer provinces -- well, you always reach the "Take it or leave it" point with the Federal Government



saying "Take it or leave it".

In fact, from what I have heard of the Dominion-Provincial finance conferences over the years, usually the provinces went and had the Federal Government's plans announced to them and you do not get agreement at the conference itself at all. They all went home again and then the federal authorities asked them one by one: "Do you want it or don't you" and the poorer provinces always had to take it, because they would be worse off if they didn't, and this was a matter of the sheer financial power of the federal authority.

So the minute you are talking about bargaining, you are talking about bargaining for the control, you are right back to the basic constitution arrangements. What happens if you amend, and what levers have you got to put pressure on others?

THE CHAIRMAN: Well, apart from the levers, that is, I suppose, why we have the Ontario Advisory Committee, so that we might go to the bargaining table and Ontario might suggest policies, as indeed Quebec has been doing.

PROF. CREIGHTON: Can I ask Mr. Perry a question, Mr. Chairman? He says in effect that we are very close to the end of the road which is allowable to the provinces in order to permit



the Federal Government to have some influence over the growth of the economy, and that they cannot take over a larger part of the transfer taxes. Is it not a case that this is not a thing you can go much further with? What do you think can be done?

MR. PERRY: I don't know. These are co-operative arrangements, of course. Beyond that one can have unco-operative arrangements, in other words, arrangements in which governments who need money and are serious enough about their wishes for money, impose their own taxes.

PROF. McIVOR: This in fact what Mr. Sharp told the provinces.

MR. PERRY: Sure. It is not a bad story either. In other words "if you want your autonomy, take it, go ahead. You have the power."

DEAN LEDERMAN: That is without infringing on the federal taxing power?

PROF. CREIGHTON: You have got the power.

MR. PERRY: "You have got the power, just use it".

PROF. CREIGHTON: You don't want to do it. This is a political ---

PROF. McWHINNEY: This is a normal role of federal states on income tax. Even with Australians it is a supervening condition. The normal thing as far as federalism in this country





is joint federal-state-provincial income tax power, that so far you generally rely on reasonableness and economic facts more or less to produce common sense, but there is nothing to stop both taxing on the same income. The issue then would be legal priority if it came to a showdown.

DEAN LEDERMAN: You get it from the unhappy taxpayers.

PROF. McWHINNEY: Certainly since the Rowell-Sirois Commission and probably before, there has been, I suppose, a prevailing philosophy of Canadian federalism of the tax package rather than double taxation, so to speak.

THE CHAIRMAN: There are certainly strong views coming out of Ottawa these days suggesting that maybe federalism should be moving in terms of the more traditional or more commonplace type of federalism, i.e.: "Find your own resources and do your own deeds".

PROF. McWHINNEY: You say this is current Ottawa thinking?

THE CHAIRMAN: I say there is a certain flavour coming out there.

PROF. McWHINNEY: That is vis-a-vis small provinces but surely Ottawa is not going to see with equanimity the possibility of Ontario and Quebec ---



THE CHAIRMAN: You remember that when the Ontario budget was introduced this year the wording was written rather deliberately that next year the provincial government would be obliged to add four percentage points of income tax which would in effect get into a double taxation area unless that amount or its equivalent were forthcoming in the coming Federal-Provincial negotiations; to which the Minister of Finance said to the press and again in his own budget a month later: "If Ontario wants and needs that money, there is nothing to prevent it from going out and getting it."

MR. PERRY: In other words, "go jump in the lake".

PROF. MEISEL: But there is really unanimity of opinion, I should imagine, among the provinces, that inflation is not necessarily a good thing and therefore it may well be that if the federal government will not be able to influence the economic policies and fiscal policies of the whole economy, that the provincial governments (perhaps in conjunction with the federal government) will be compelled to agree on certain policies that they will adapt, as it were, internally, but in fact it will be the result of consultation carried on for the sake of preventing the whole economy from suffering.





11 MR. STEVENSON: Yes, and I think one of the things that accompanies this wind blowing from Ottawa is the assumption that if one gets to more of an autonomous position, if the two levels of governments can set tax rates, that you should also have a much better mechanism as it were, for deciding on just how far you can go. Otherwise you would have quite an uncontrollable competitive taxing situation.

PROF. CREIGHTON: You could indeed, yes.

THE CHAIRMAN: We were discussing this the other day and producing a situation that we called a "beat the other fellow to the punch" budget. That is to say, if the provincial budgets, which come in before the federal, if they all started whacking on big income taxes, politically the federal government would find it virtually impossible to not tailor its budget to raise most of them. So that there are other disadvantages.

MR. PERRY: So that it would start having its budget the previous fall.

THE CHAIRMAN: It would end up with the "backs to the wall" budget and there would be some disadvantage there, and as Don said, in becoming really quite out of control, so there would have to be consensus.

PROF. CREIGHTON: Mr. Perry, this kind of



taxing competition does not occur in the United States, does it, or does it to the extent ---

MR. PERRY: It stays right through the piece, except in the States it is a small proportion that it hardly qualifies as competition.

THE CHAIRMAN: This is interesting though. The provinces and the municipalities together account now for 55 per cent of tax moneys raised. I wonder what the proportions would be in the United States?

MR. STEVENSON: Of expenditures.

THE CHAIRMAN: I am sorry, of expenditures. I wonder what the proportions would be in the States?

MR. PERRY: I don't know. I was just thinking of the relative sharing of the direct taxes. A state like New York anyway probably has a personal income tax that is equivalent to five or ten per cent of the federal tax.

THE CHAIRMAN: Surely these big states must have a pretty substantial field of expenditures.

PROF. McWHINNEY: When I was in Connecticut there was no income tax down there. I think there is now. Was there any in Massachusetts?

MR. SEGUIN: Yes, there was, very, very small.

MR. PERRY: You see, in Washington, they



do not often regard the states as competing governments. They lump in the figures, though in the private economy.

PROF. MEISEL: Mr. Chairman, is that 55 per cent of government spending?

THE CHAIRMAN: Government spending.

MR. MAGONE: Municipalities sometimes impose sales tax too, don't they?

MR. PERRY: It is getting pretty common in the bigger municipalities.

THE CHAIRMAN: If you talk about capital expenditure, it is about 80 per cent in the Province of Ontario. Public expenditure investment as an economic control device has also got a pretty big hand in the provincial-municipal field.

PROF. MEISEL: Am I right in thinking that if the powers to manipulate the economy to some extent shifts from a pure federal government position to a more shared decision or group decision on the part of the provincial and federal governments, that in effect it would be the governments of Toronto, Quebec and Ottawa who would in fact make the important decisions?

PROF. McIVOR: Yes, I think that is true, those three governments.

PROF. MEISEL: I am not sure that this is not in a way what some of the Quebec nationalists





are really saying should happen, the people who say they want to have a voice in making these decisions, and that this would probably satisfy them and certainly could be achieved without changing anything in the B.N.A. Act.

THE CHAIRMAN: You mean they like these three groups together to be ---

PROF. MEISEL: I do not think they think of it quite in those terms.

THE CHAIRMAN: An unholy trinity making decisions.

PROF. MEISEL: This is something where I think they would become pretty potent spokesmen, and I suspect in real power terms this is what some of the people really are thinking of; that they do not want the decision to be made entirely by the ten provinces or by the federal government, but if they have a voice to run, say, one-tenth or one-eleventh in this, they would probably be quite satisfied.

PROF. BRADY: Surely they have a voice at the present time much greater.

PROF. MEISEL: I think they do, but I think this does not -- I think often they do not think it.

MR. PERRY: It probably is not revealing much of a secret, but Professor McIvor will verify that the federal Royal Commission had



joint meetings at one stage with four Royal Commissions in being, and it ended up towards the last that the Quebec and Ontario Commissions were the main other bodies, and we argued these matters at great length.

We found in the Quebec Commission group, with Marcel Boulanger, a very influential man in Quebec City, as Chairman, that there was a great deal of sympathy for a very active co-operation between Quebec and Ontario and Ottawa, and that this was not foreign to his thinking at all.

THE CHAIRMAN: I think we could confirm that at the Civil Service level, the officials too.

You know, it is just in the nature of things, there is not a week goes by, I think, without several telephone calls between my office and Ottawa and Quebec City.

PROF. MEISEL: This is getting away from the immediate preoccupation, but one of the problems we are confronting really is that some very significant changes are taking place which in effect are at least partial solutions of the problems that we are confronting, when we have not found any sort of acceptable formula, something symbolic that could be wrapped around this and make it politically acceptable to the people who are the politicians in the various areas of





the country where this matters.

THE CHAIRMAN: Mr. Bennett might demur.

PROF. MEISEL: Ruling him out of existence.

PROF. CONWAY: Although supporting Professor Brady's report very strongly, I had part of my reservations about no changes in the British North America Act; because it seems to me at least an open question whether that instrument, devised when it was devised, can contain, with the best will in the world, the kind of changes that you are suggesting.

PROF. MEISEL: But they are occurring under the present provisions of the B.N.A. Act. What we need is to carry on as now but find some kind of nice slogan and titles and cloaks, well, like the Emperor's Clothes. I think we have something that will sell.

PROF. CONWAY: The moral of that story is rather a sad one.

PROF. BRADY: I think if you tried to amend the British North America Act you would not get this kind of arrangement being suggested, recognized, because all the provinces would wish advice in the matter and have changes that would recognize their equality.

PROF. CONWAY: I wonder what kind of slogan, what kind of device you have in mind?

PROF. MEISEL: I do not have any. I wish



I had.

PROF. McWHINNEY: A good phrase is helpful. For example, this phrase "Co-operative federalism" was followed by the very limited and very official wording of the American Constitutional Act and it seemed to come in about, I believe I am right, ten years ago. It has been given quite a different but much broader connotation here. It happens to be a very beautiful phrase though, for anybody who wants to manipulate things in a particular direction.

PROF. MEISEL: But politically, of course, it is finished. I think it is too much identified with a particular government, and also been interpreted in so many funny ways that I think it has lost its original appeal.

MR. PERRY: I think the reverse is unco-operative federalism. I really cannot see what "co-operative federalism" means.

PROF. BRADY: How about calling it co-ordinative federalism?

MR. PERRY: Surely the word "federalism" implies some sort of co-operation.

PROF. MEISEL: I wished to call it genuine federalism.

THE CHAIRMAN: What about "federalism"?

PROF. MEISEL: I think the point Mr. Perry makes, this 50 per cent target that the



Committee is making, assumes that the mechanism of arriving at policy is much simpler at that level. You can still probably -- in fact you have to -- cope with 60 or 66 per cent and more but it will be more difficult, when it will be a more clumsy and sometimes perhaps an exceedingly difficult process; because in a sense the policies will have to be negotiated among governments in some instances which are not in total agreement as to the seriousness of the crisis confronting the economy.

DEAN LEDERMAN: This gets you into all of the problems of representing governments and cabinet government, of decision-making in a series of other conferences of some kind.

PROF. MEISEL: That is right, I am afraid.

PROF. CONWAY: That is happening anyway.

PROF. MEISEL: The conditions in which we find ourselves probably involve this kind of course.

DEAN LEDERMAN: May as well be France and England trying to get along as Ontario and Quebec.

PROF. MEISEL: Well, not quite.

PROF. BRADY: Ontario and Quebec do not now have a great deal of difficulty really getting along in a sense. They have a lot in common as provinces.





DEAN LEDERMAN: I was making more of a rhetorical than serious point there, certainly dealing with hyperbole.

THE CHAIRMAN: I wonder how the Committee reacts to the basic postulates of the Economic and Fiscal sub-committee as set forth on page 15?

PROF. CONWAY: We have questioned this sub-section 4 of that, Mr. Chairman. In principle, this is simply on grounds of ambiguity. What fiscal arrangements? Does everything applicable to one province apply to every other province?

PROF. McWHINNEY: I take it it was intended to negate special arrangements, special privileges for Quebec. I would not say it is commonplace, but you find the affirmative of that provision in other federal systems as a method of helping in effect under-privileged provinces, written in as a constitutional provision.

PROF. MEISEL: We have it in Canada.

THE CHAIRMAN: Equalization.

PROF. McWHINNEY: Yes, equalization.

MR. PERRY: I must say the member of the Committee who feels most strongly about this is not present today.

PROF. McWHINNEY: He dropped it, I take it?

MR. PERRY: No, this is George Gathercole, on which he does feel quite strongly. I think he feels any other rule but this leaves one exposed



to bargaining between the federal and provincial governments. On the other hand, there is instance after instance of special arrangements made in the past which were quite valid in the circumstances.

PROF. McWHINNEY: You mean economically sensible?

MR. PERRY: Conditional grants to Newfoundland and the Maritimes and natural resource transfers to the prairie provinces and that sort of thing. This all seems quite valid.

PROF. CONWAY: And that, in fact, was made available to all provinces?

PROF. FOX: That is what we wondered, what the phrase "fiscal arrangements" meant. Does that mean taxing arrangements or does it mean subsidy arrangements?

MR. PERRY: Anything at all. It involves payment of money or transfer of tax.

PROF. FOX: The point John raised, do you think the special grant to Newfoundland under what, term 26, ought to be extended to Ontario?

PROF. McIVOR: I think the Committee had more misgiving about this particular point 4 than any other point put in there, and I think it applies in the face of the existing conditions.

PROF. CREIGHTON: You put the words "in principle" ; in other words there might be





qualifications or limitations.

PROF. McWHINNEY: Did you try to do something that would have the effect of adding something later on also, or was it more intended to negate the special fiscal status for Quebec, but at the same time by an unexpected sequence of ---

MR. PERRY: The purport here is that the Federal Government should not go about awarding special favours to any province. That is what we are really trying to get at. Special favours implies including anything in the world of any kind whatever.

PROF. FOX: Was the Causeway, the special grant to Newfoundland?

MR. PERRY: No, there is no grant in the Causeway; it is a federal expenditure.

PROF. FOX: It is getting close to it, but let us stick with Newfoundland.

PROF. CREIGHTON: Atlantic provinces.

PROF. McIVOR: You are just like a dog with a juicy bone, Paul.

PROF. FOX: I think we need to change ---

THE CHAIRMAN: Atlantic Development Board.

PROF. McWHINNEY: I agree with Paul on this. I think the obvious fact of inclusion in most federal systems dictates a positive provision permitting special financial arrangements for



underprivileged provinces. This is too broad.  
It negatives ~~that~~er.

MR. PERRY: It may not be an underprivileged province; it may be an overprivileged province.

MR. STEVENSON: Assuming there was some reference to Quebec intended in the original placement of that section ---

MR. PERRY: It is not difficult to see through the facade here.

MR. STEVENSON: I would say it would be interesting to get general comment on a possible type of question that could come up.

Let us take the example of a hypothetical situation where the Federal Government might want to permit Quebec to have a special arrangement with regard to educational programmes; whereas with the other provinces it might continue with a cost-shared programme or perhaps some form of direct assistance to universities.

THE CHAIRMAN: Or block grants.

MR. STEVENSON: The block grant approach -- unconditional form would only be available to Quebec. I would take it from the sub-committee report that this is the kind of thing they do not feel should be permitted.

PROF. McIVOR: This provision (4) here was intended to read, I see, most directly "No special deals for Quebec" but it does not express very clearly, I think, what we are trying to get



at in here, and I do not know how to express it.

PROF. McWHINNEY: Why not say "No special fiscal arrangements to be made available to any one province where no special economic need exists", something like that.

THE CHAIRMAN: Then you have got the case where you might make a grant, say, to the Atlantic Provinces or equalization formula for warranted economic needs; or you have got the case that Don has just mentioned, where you want federal assistance in a provincial jurisdiction, and because one province feels more strongly about its constitutional interpretation than others, you make provision for them to get their money in a certain way.

But there is a third over-riding position that was considered, and it is this; that these are explicit single device things, so to speak, but there is the other proposition in which you introduce a whole new technique or machinery of very broad application.

For example, the opting-out technique is a device, a piece of machinery of very broad application and very broad implications; but you know that that device has been, in a sense, a device which is only going to be of practical interest to province X. Yet that does not just affect 25 million to the Atlantic Provinces or even





a certain sum of money to a given province on a certain programme. It affects the whole philosophy of all federalism which is built up, continued; means you do not do certain things the other way as a result.

The question is, is this a wise way of introducing generalized principles of federalism when you know they are only going to have application to one area? Is this contrivance warranted or is it better to come out and say: "We are not going to try and invent a whole complex mechanism to suit province X"? Let us just come out and say: "We will extend to Province X a certain special grant" whether it is 25 million to Newfoundland or special formula for educational systems in Quebec; let us consider that on its particular merit and do it if we wish, but do not let us devise a whole complicated mechanism to disguise what you are trying to do.

PROF. MEISEL: Are you supporting the term (4) or opposing it?

THE CHAIRMAN: I was just explaining that I felt -- and I am speaking personally here, not on behalf of the committee -- I felt that this thing is philosophically rather deeper than perhaps had been conveyed by the passage there.

PROF. MEISEL: What you are saying, that you make general rules within which you can make



special deals, or you simply make special deals.

THE CHAIRMAN: Yes, except I would not make them mutually exclusive.

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MR. PERRY: Perhaps the difficulties now are getting rather less sophisticated in Ottawa about this. When Dr. Clark was there, we used to work out such things as under a specific programme the grant to no province would fall below \$200. Everyone knew very well this was the figure for Prince Edward Island and it would not possibly apply to anyone else, but it gave Prince Edward Island \$200. If this is the way you generalize ---

DEAN LEDERMAN: Speaking of that, there is nothing about an equalization of flow<sup>in</sup> these basic postulates. That has been basic in our federation. I do not see equalization anywhere in this paragraph.

PROF. FOX: May be No. 3.

DEAN LEDERMAN: Talks about "revenues".

MR. PERRY: I wasn't even sure we accepted equalization as a postulate.

PROF. CREIGHTON: You don't.

PROF. McWHINNEY: You switch from postulates to elements, and equalization is shown as a basic element but not as a basic postulate. It is a deliberate differentiation?

MR. PERRY: Equalization is some minimum standard.





PROF. McWHINNEY: Equalization is just a technique.

PROF. McIVOR: Equalization might well be regarded -- equalization is a technique that is relevant to item No. 3. It is one technique for "allocation of sufficient tax revenues".

THE CHAIRMAN: Yes. In fact all of the techniques, all of the elements mentioned below flow from postulate 3.

MR. PERRY: We have a grammarian, by the way. Professor McIvor was asked whether you postulated an assumption or did you postulate.

PROF. McIVOR: This was our most serious problem.

DEAN LEDERMAN: I am sorry, but giving a province sufficient tax revenues, is that the same thing as making equalization grants?

MR. PERRY: They are not the same thing, but the equalization grant is just part of the process of giving the province sufficient revenues.

DEAN LEDERMAN: I see. You do not necessarily mean its own power of taxation. You say "tax revenue"?

MR. PERRY: Revenue.

PROF. McIVOR: That is correct. We just said "revenues". We might just say "revenue" the allocation of sufficient revenue.

PROF. MEISEL: Mr. Chairman, to come back to



the general discussion of these postulates, I would like to express a serious objection to the fourth point. I think under the present circumstances I cannot conceive of our being able to do without special arrangements. Therefore it seems to me that if you are going to say anything that will be useful to the Government of Ontario, we should not really say that they ought to, on principle, reject special deals when in fact they will be made.

THE CHAIRMAN: Let us have a straw vote on postulate 4.

PROF. McWHINNEY: That is as it now stands? Are you putting it as now drafted or just the principle?

PROF. MEISEL: We have not anything else to put in as principle.

THE CHAIRMAN: What we have, we have.

PROF. McWHINNEY: Okay.

THE CHAIRMAN: Just as a straw vote, how many would throw this out, if you are going to come up with a package this afternoon?

MR. PERRY: Are the members of the sub-committee permitted to vote?

THE CHAIRMAN: Sure.

--- Laughter.

THE CHAIRMAN: Well, quite a bit of straw



there.

PROF. McWHINNEY: Was there anybody in favour of it, Mr. Chairman?

THE CHAIRMAN: I didn't ask. All right, how many would retain it?

MR. PERRY: If we are talking about wording, I think there is still some germ of thought.

DEAN LEDERMAN: Perhaps what is meant is that special fiscal arrangements peculiar to one province should be kept to a minimum.

PROF. MEISEL: As a rule.

DEAN LEDERMAN: You admit there are going to be some.

MR. MAGONE: I think the idea as expressed by you and not by Section 4 is all right, and I have just been wondering whether, changing a few words, it could be cleared up by saying:

"The principle of any fiscal arrangement

"made available to one province should

"be made available to all provinces. "

Would that make it clear?

PROF. FOX: One province could get the money and the other province could get the principle.

THE CHAIRMAN: Principal and interest.

MR. MAGONE: As long as you give the principal to the one and the interest to the other.

PROF. MEISEL: That is closer to what we wish, but I think the words "fiscal arrangement" are





too vague.

PROF. McIVOR: Am I correct that George Gathercole, who is the main proponent of this point 4, seemed to be concerned a good deal with the form of fiscal arrangements being available to all provinces?

A possible illustration, was it not, was in connection with the federal assistance to education in the Province of Quebec and the one per cent corporate tax form that was created for such purpose.

THE CHAIRMAN: Right.

PROF. McIVOR: For this other province then it would turn out that this has not been available, and this is the sort of thing he seemed to be arguing, that Quebec is given assistance in one form; yet the same form was not available for the other province.

I think there was no intention on his part that particular, special grants, let us say, should not be made to underdeveloped areas or needy areas or so on.

This is a very poorly worded section, but I still think that there is a point here, that is, if we can only word it here, it should be included.

PROF. MEISEL: Mr. Chairman, can we leave it to the Economic and Fiscal Committee?

THE CHAIRMAN: Yes, but I wanted to get



here, because I think this will obviously be a very important point. It is going to be important in the negotiations.

PROF. CONWAY: I am struck by what Professor Meisel said, that it may be actually necessary in the interests of the county to make special deals, so why set up a principle stating that you cannot do it?

PROF. McWHINNEY: If you are really designing this to prevent special arrangements being made with provinces without any special economic needs, then you should say so, in my view.

MR. PERRY: I know what George has in mind is the tax rental contract, and this was quite a long involved document. There was a clause which said that no arrangement would be made with any individual province with which the Federal Government had entered into a contract, which was not simultaneously offered to all other provinces. This is exactly the thing we had in mind, and that was very carefully adhered to.

PROF. McIVOR: But this did not prevent special grants.

MR. PERRY: Outside the arrangement it did not involve anything, but of course this was the main vehicle for payments.

PROF. MEISEL: I think that is accepted.

MR. PERRY: And only apply to that particular





vehicle.

PROF. CREIGHTON: It is the vagueness of the phrase "fiscal arrangements".

MR. PERRY: Some of the vagueness is deliberate, of course.

THE CHAIRMAN: You know, as I expressed my own view before, I would sooner, ~~if I were~~ Quebec in that instance found that it was unwilling to accept the grants that were administered through the Universities Foundation, I am not so sure it is not better to treat that particular event as a particular instance and make a special arrangement for them, or for any other province, rather than trying to create a mechanism which is going to give the appearance of making this freely available to all, which it is not in practice, because it is not what people want, but may have the effect of distorting your whole approach to the structure of federalism.

MR. PERRY: Why don't we have another look at it and see if we can find some better words?

THE CHAIRMAN: I think it is important, because I think we know it is going to be very much of the essence in the coming months on this point. Well, the time is drawing nigh. Are people sagging a bit at this stage?

PROF. MEISEL: Mr. Chairman, I would like to see us discuss the first postulate, which obviously no one can take exception to, or it would be difficult to take exception to it.



At the same time I think perhaps we ought to look at what precisely it means and what particularly it means in relation to the present political realities confronting the federal government and the provincial governments, but I doubt very much whether this is the time of day at which to start that.

PROF. BRADY: It is an appropriate time of the day to raise the question, I think.

PROF. McWHINNEY: Really they should be asked "How strong?", because this is the real key.

PROF. CREIGHTON: And you try to put a limit, that is what it seems this paper is saying, and why it is desirable we should confirm it. It is the best thing that has come out of this Committee so far.

PROF. FOX: Contrary to No. 4, this is a masterpiece of draftsmanship. Now, what does it mean?

MR. PERRY: For anyone generally to understand that it would have been fairly difficult.

THE CHAIRMAN: It is a sort of "life, liberty and the pursuit of happiness" kind of position.

MR. MAGONE: I think we are ready for a motion by Professor Brady here.

PROF. McWHINNEY: The first three, apart from 4. As you say, Mr. Chairman, there is this Jeffersonian ring to them, and I do not



think anybody would disagree with it.

DEAN LEDERMAN: Shouldn't we think about this overnight and return to this, and make the report the first order of business in the morning, and possibly we can do something, take a decisive position about it?

PROF. MEISEL: And the same thing with the other one.

DEAN LEDERMAN: The same with the other one too.

THE CHAIRMAN: I was thinking a bit about the procedure for to-morrow. There are two future procedural suggestions I wanted to discuss. The first is longer-run. As I said at some point I would like to see us with a document that in other areas, whether it were agreed unanimously or not, that presented a paper much as this does in the economic and fiscal area.

As a practical matter, with a group of this kind, the thing one needs to do, I think, is to have staff work which will present a straw man and you can build on this or knock it down. We are now getting a stronger staff. For example, when we worked on this paper, our staff would produce position papers or material to talk to. A great deal of it we did not agree with, and a great deal was thrown out, but it eventually resulted in a concrete document.

I am wondering if our staff should work





back through some of the materials that have been assembled in the other committees and in the whole Committee as reported in our proceedings, and other places, and try and establish or build up some papers or some positions that we can speak to specifically.

For example, as you know, Mr. DeLisle is working with us full-time now and we should make good use of his time on constitutional matters. We have others who, I think, could do similar work in the federal-provincial affairs secretariat for the cultural committee.

The second suggestion was to use as a model that report of the Committee of Sixty (which is in the last batch of stuff). They have set out a certain series of general propositions about the future of federalism. We might want to address ourselves to those and from those start to establish principles that we agree with or other things we do not agree with.

PROF. CREIGHTON: This cannot be done to-morrow, because I, for one, have not that document with me. I thought we were going to focus upon these two papers. That is what you said in your letter.

THE CHAIRMAN: Yes, but there is this question which we began this morning: Is our purpose in this weekend to take these papers and to edit them and agree step by step so that at the



end of the time we have got two papers here that we would stand by, or is our purpose to evolve ideas that give us a position?

PROF. CONWAY: We seem to be rather close to agreement on this economic, with some changes, if we were to discuss it again to-morrow and have a vote on it. I do not know what the effect of such a vote would be, but it would give us some sort of status. Similarly with Professor Brady's paper. Then we could also discuss to-morrow the suggestions that Professor Brady brought up about three-quarters of an hour ago.

PROF. McWHINNEY: I think the Quebec Committee of Sixty report, particularly if you simply presented the Globe and Mail summary of it, would be very helpful in connection with Professor Brady's paper; because it does focus itself on some policy recommendations which are reasonably clearcut and it may help us. I think your suggestion is very helpful.

It is not perhaps the less detailed study of it which Professor Creighton is rightfully concerned about but simply focussing on the main recommendations.

THE CHAIRMAN: You see, every day and for months past and for years past, there have been views expressed in the press and every public medium on questions of Canadian Federalism. Surely at some point this Committee, either as a





group unanimously or as spokesmen of individual positions, can say to the Prime Minister of Ontario: "Well, these are all those areas that have been debated ad nauseum. Here is what we think."

PROF. MEISEL: We are moving in that direction. I think I would be surprised if we would be in a position to-morrow to sort of accept either one of these two documents and say: "This is it".

THECHAIRMAN: Yes, I come back to this point. As soon as the Quebec election is over on June 5th, in six or seven months the Prime Minister of this province should be able to give speeches and make declarations, and he wants to.

PROF. BRADY: Mr. Chairman, if we have time to-morrow, there are some questions arise in this report of the economic committee which you will want to discuss some more, and I think there may be some questions with respect to my paper about French Canada and French-Canadian claims to be considered.

If we have time, it would be really easy to read a few of the more pertinent remarks in that short report of the Committee of Sixty. It is a very brief document; it really summarizes points, and it could be discussed. In other words, I do not think it is necessary to have the document. The points are points that have been discussed a good deal in all these forums on



confederation, and merely reading them out to express views about them in the Committee would be a useful function, I think, in crystallizing our own thinking on these questions.

THE CHAIRMAN: Then there might be three things we can do consecutively. We could perhaps begin and see if there is substantial agreement and what amendments would be required to reach that, in the economic and fiscal paper.

We might then work through Professor Brady's paper systematically, as we had agreed to do initially in this meeting, and address ourselves to the issues that are troubling in it, step by step, as a way of establishing our positions and organizing our thoughts.

Then, thirdly, we could go to that Committee of Sixty report, only as, so to speak, an aid for discussion to point to certain propositions; address ourselves to those propositions and see where we differ or where we agree. This would help, I think, our staff work to follow them up, and it might help us to come to a new position.

PROF. CREIGHTON: Mr. Chairman, so far as the economic and fiscal committee report is concerned, I think this is a report on which the majority of members here can agree with some amendments. I do not feel the same way about Professor Brady's report. I should not regard that as a kind of basis for the approval of this



Committee. I am not sure whether one would have to produce other possible bases as alternatives to it. It does not seem to me to be a question of division or amendment at all. There is something more fundamental about it. I think we can go through that, but there are questions which it will not raise at all.

THE CHAIRMAN: I am sure the intention or the character of the two was different. That is to say, this represents the economic and fiscal committee contribution to the piece so far, just as the resolution on the Supreme Court or the resolution on the cultural agreement represented a piece of work; whereas the purpose of Professor Brady's paper was to give us a background within which to discuss the issues. I do not think it is your intention that we would come to a resolution on your paper as such?

PROF. BRADY: Oh, no. I thought I was asked to write a background paper that would survey the development of the federation up to the present, and I realize, of course, that there are many features of the federation that I did not touch upon at all.

I was also told that the paper should be within readable dimensions, certainly not to exceed about five thousand words. I am not sure how many words it does cover (it is probably in excess of the five thousand) but I tried to keep





to those terms of reference. I know it is only a very inadequate paper as it is, surveying what is an extremely complex federal system.

PROF. CREIGHTON: I wonder, Mr. Chairman, if it might not be useful for each of the committees to attempt to produce a document something comparable at least to that submitted by the economic and fiscal committee. We would then have something fairly comprehensive and precise, and we could tackle that.

It seems to me that until we get some such document, or anyway more paper before us of a general and comprehensive character, we shall continue to go around in a rather aimless fashion.

It seems to me that this does propound to us the basic issues as we have not had them yet in any of the other areas of our work. I wonder whether the best thing for us to do is not to retire into these committees and try to do this. It is something very positive and very straightforward. At least then you will have a section of this group which can come to some kind of consensus.

PROF. FOX: Did we not intend for this session, though, to use Professor Brady's paper as a sort of resource paper primarily, and discuss it in detail and argue over the points and so on? Was that not the function of this meeting really?



PROF. CREIGHTON: Yes, but this lays out very definite recommendations of one kind and another. There are very few, apart from the recommendations concerning education ---

THE CHAIRMAN: This seminar weekend was to clear the air so that we would know on what areas and what points we wanted to produce a final form of resolutions on, working from Professor Brady's paper.

PROF. CREIGHTON: There is this point also, of course, that Professor Brady in his paper develops a certain view of federation, theory of Canadian federation, at some length; and unless those who disagree with that have the opportunity of presenting an alternative view, the opposite side, of course, is not really heard.

DEAN LEDERMAN: I think that if we are going to produce a political and constitutional paper, are we not too fragmented? Should not the political scientists and the lawyers and historians be sitting together more than they are?

PROF. FOX: I think it is pretty hard to produce a paper by general participation, is it not? We need to do what Professor Brady has done, that is, have a paper, discuss it, and if somebody would care to prepare an alternative interpretation or something of that sort we can prepare it.

I take it, Donald, you are objecting





to the idea that we might accept Dr. Brady's paper to-morrow?

PROF. CREIGHTON: Yes, I could not do that at all.

PROF. FOX: I do not think that was the idea.

PROF. CREIGHTON: We have just done that with this, and I was just wondering whether we ought not to produce similar things we have discussed and possibly either accept in total or acknowledge in part.

PROF. FOX: All I am saying is I think it is more apt to come after to-morrow's discussion. Surely the next logical step is to discuss Dr. Brady's paper.

For instance, in our sub-committee this morning we discussed a number of points and people suggested enlargements on certain things. Dr. Conway objected to a certain portion, and so on. Is that not the purpose?

PROF. CONWAY: To-morrow's meetings. We could not get around to it this afternoon. Surely we can do this to-morrow?

PROF. MEISEL: The subject is so different. It seems to me in the case of economic policy the Ontario Government will have to take certain positions, respond to certain positions. We know what they are. The Committee has dealt with them. There is a very concrete set of problems



on which we must express opinions if possible, within a fairly narrow range of possibilities.

THE CHAIRMAN: You cannot avoid doing it.

PROF. FOX: We have got to do it.

There is also the field of constitutional change where one could attempt the same thing. Dean Lederman's paper on the Fulton-Favreau formula is a beginning here, I suppose, but here too the thing is pretty broad; and when you get to the kind of subject that Professor Brady deals with you are in a much more general area still where specific cases on which recommendations can be made are not nearly so clear, and therefore I think it is not nearly so easy to prepare the kind of report that the committee on economic and fiscal matters prepares.

I think we would benefit a great deal from a general discussion to-morrow of the Brady paper, which would give us a chance to take tentative steps towards certain positions. If we want to present a great big report which we can try to subscribe to, fine, but I do not think we are ready for this yet, and it would be a useful exercise to discuss the Brady paper so that we can begin really taking positions on the broader issues.

PROF. BRADY: In otherwords, we have to clarify our thinking as a Committee as to what is happening in the federation. I have outlined



some points of what I think has been happening in the federation, and some members of this Committee may not agree. Well, they should bring out their points, because I do not think we can discuss very intelligently otherwise some questions that I consider give rise to or must give rise in the next few years to important lines of policy. The emergence of the new kind of - call it the new kind of Quebec - presents problems that did not exist before precisely in this form, and the Ontario Government has to confront them and I think that some members of the Government are well aware that they exist; and if we are playing our proper role, we have to give some guidance to the Government in confronting them.

Now, we have got to be aware of what they are, and we should discuss as to what constitutes these problems. That is obvious; that is a preliminary that is essential to everything else. Then we get to the question of laying down some possible lines of policy.

We may not be able to get agreement, and I suspect there may be still difficulty in this Committee on getting agreement, but we have got to face the question, and we have got first to face the question of what is happening in the federation, what kind of things have been occurring in the last five or six years.

DEAN LEDERMAN: Mr. Chairman, I would be





in favour of staying with the original plan. I think we are within easy reach of agreement on the economic paper, and that we should try to get on quickly to Dr. Brady's paper to-morrow.

I am prepared to do anything I can within the duty of this Committee, to produce special constitutional studies, if this is what is wanted, but it has to be defined what is wanted. One can make up a list of things. There is the institutional side. A special paper on the Senate is already commissioned. There are other things. Mr. DeLisle at the present time is working on what is actually Ontario Government files on trans-border arrangements of all kinds, so there is that aspect of it being worked on.

The question of constitutional amendment I think the Prime Minister expects to have to face very soon. I am certain something can be done on that score. There may be in the list about ten things which have a particular constitutional-institutional emphasis in which papers are needed, or one paper that deals with it all together, and upon which you might like to see the constitutional sub-committee take a position. I do not think a committee can write a paper, but a committee can discuss a paper and revise it.

I would not want either Dr. Creighton or the Committee to get the impression that I am against the production of a comprehensive document



but I do not think you can even start on the production of such a document unless you list the issues that you want to watch.

THE CHAIRMAN: I take it then there seems to be a consensus to work through Professor Brady's paper, and to elicit issues and to try to pin-point the issues, and the questions that we have to develop. Perhaps if we just work through this systematically. There is really no other way.

PROF. CONWAY: Can we have it first on the agenda to-morrow, Professor Brady's paper, when we are quite fresh?

PROF. McWHINNEY: What about the economic paper?

PROF. CONWAY: I was thinking, since we have just got this two-day meeting, that we have discussed the economic paper at some length this afternoon.

PROF. McWHINNEY: I thought the suggestion was adoption of part or all of the recommendations of the economic paper, and since we have nearly a consensus on it ---

THE CHAIRMAN: If we can adopt it fairly speedily, but there is the obvious danger ---

PROF. FOX: You can set a time limit on the discussion.

PROF. MEISEL: There is a reasonable question in the economic report which is a well-





taken point, that the report claims only to deal with the economic aspects of the problem, and opens up really the whole question of non-economic factors that have to be taken into account.

I do not think we will probably get very far to-morrow with that part of it, but I think perhaps we ought to go on with the discussion from there. Perhaps it is better.

DEAN LEDERMAN: When I think of adopting the economic sub-committee's report, I think of adopting it on its own terms, that is that it purports to speak only for the economic factors; accept it on its own terms, and then the other - any issue where there are non-economic objections for which we are prepared to pay an economic price.

MR. PERRY: That is for the politicians.

PROF. MEISEL: We should advise on that as well, not only the politicians. They want to be advised on that point.

MR. PERRY: Perhaps more correctly, it is not for the economic sub-committee ---

PROF. MEISEL: Right, but it is for the whole Committee.

PROF. FOX: What time in the morning?

THE CHAIRMAN: Ten o'clock, and that is daylight saving time I would remind you.

I have a sense we had better start in on Professor Brady's paper and adhere to the precedent of our original purpose. I am sure



we can wrap up the other in the day too.

-----The meeting adjourned at 6.00 p.m.  
until 10.00 a.m. to-morrow, Sunday,  
April 24, 1966.



SUNDAY, APRIL 24, 1966

-----On resuming at 10.00 a.m.

THE CHAIRMAN: There are one or two to come, but I think we might get going now.

I think we agreed to start working through the Brady paper. Professor McIvor has provided some proposed revision of the postulates 1 and 4 which troubled us, and since there seems to be general agreement with the substance of that, perhaps at some point to-day, if we can agree on this, the paper would stand fairly clear.

I cannot think of any better way than just progressing through this paper step by step, and perhaps asking Professor Brady to lead us through it, and having issues raised by you as we go along.

PROF. BRADY: Surely, Mr. Chairman, it is not necessary - you are not thinking of having the thing read?

THE CHAIRMAN: There are two ways of doing it. We can either work through it page by page asking for comments, or just plunge right into it on the whole, whatever ---

PROF. MEISEL: Mr. Chairman, is it the intention that as the result of our discussions of the paper, it will be revised to take into account various, sort of, responses to it, or what is the purpose of our discussion?

THE CHAIRMAN: I thought the paper was to give background, to elicit issues of discussion,





to guide us to points of resolution after. I do not think we are working through in any editing or revision process of the paper. I do not think that was your intention, was it?

PROF. BRADY: No. This is an individual contribution to the Committee, as it were; it is not a committee report. I think, as you said yesterday, it was intended as a background paper really to our discussions. It may be it raises some questions and we need to discuss them, and in our discussions we presumably try to reach some general conclusions on the federal system and the direction it should take.

THE CHAIRMAN: That was the substance.

PROF. MEISEL: I just have an additional factor that I think ought to be remembered in connection with the material in the first paragraph. I think that the worldwide resurgence of national movements is also a factor; that we cannot really look at Quebec without realizing to some extent the impetus ----

PROF. BRADY: Yes I would agree, certainly. Then in addition to those things I mentioned -- actually I had a first draft of this paper which was much longer and the introductory part was much longer and I cut it down -- in addition to this point, some of those points that Harvey Perry mentioned yesterday about changes in the Canadian society could also be



elaborated upon. Of course, I intended them to be perhaps included in referring to the industrialization in the country - a term which covers a lot of territory and I did not define just what territory it did cover in this context. It covers a great deal.

PROF. CONWAY: We should in that connection, I think, remember that the worldwide resurgence of national movements has taken place in former colonial countries, and it is accompanied in non-colonial countries by the opposite - such as the movement in Europe towards unity, economic unity and political unity. It is a twofold thing in the world to-day.

THE CHAIRMAN: I am not going to go on too far in this discussion with historians, but Canada has been for some time removed from, first of all, being a colony, but, more particularly, is this the only instance of nationalist urges within a part of a federation?

PROF. McWHINNEY: Within a part of any existing federation?

THE CHAIRMAN: Yes.

PROF. McWHINNEY: Well, it certainly depends on how you define nationalism, but I suppose in a certain way you might view the other secession movements even without it.

THE CHAIRMAN: I meant in modern times.

PROF. McWHINNEY: Well, Malaysia is a





is a perfect example. Malaysia broke up for prominently racial reasons.

THE CHAIRMAN: But a federation that has more or less endured in a given form for a long period of time.

PROF. CONWAY: Switzerland is not breaking up. Belgium perhaps.

PROF. McWHINNEY: Belgium perhaps is an example of what might have happened if it had been a federal state. It is essentially a unitary state with the only legislation in effect being a guarantee of minority rights.

PROF. BRADY: Belgium does illustrate, of course, nationalism which is affecting an old country.

PROF. CONWAY: That is true.

PROF. McWHINNEY: The unitary state being wrecked by nationalism.

PROF. BRADY: There are very few old federations after all.

THE CHAIRMAN: Yes. You know, what is interesting about Belgium: it has yet been a fairly strong exponent of the Common Market movement.

PROF. McWHINNEY: It is a government plan. You get into the rather strange position of people like Spaak being a certain elite which is international, which quite transcends their party. This is one of the reasons he is having difficulty staying in cabinets to-day.



The elite is certainly international, and the elite makes policy to a certain extent; but it seems to me you have to get close to your grass roots.

In a way your dilemma is this is the only (what would you call it?), apart from Switzerland, the only genuinely multi-national federal state where, if you wish consensual measures operate in terms of the political choice. You can certainly say that Switzerland is a multi-national federal society and they are taking steps through central government - Yugoslavia is another good example - but the right of secession remains pretty much of a dead letter. It is guaranteed in the constitution, but it would be rather foolish to make a comparison with societies where in effect a consensus determines the complete governmental form.

I mean, Macedonia and Yugoslavia want decentralization. They may want secession, but secession won't be conceded to them.

MR. PERRY: Mr. Chairman, on the question of some of these broader aspects referred to in the first paragraph, I wonder if it would be Professor Brady's intention to expand on some of them? It seemed to us yesterday in our discussions to be actually just as analagous as Quebec or bilingual or bicultural issues at this time.

PROF. BRADY: Yes. Which way are you taking it?



MR. PERRY: Some of these, of course, are merely in the hands of other sub-groups. The constitutional revision question, for example, which is very much a part of the background of our federation at the present time, is probably touched on under the heading of Quebec and Confederation.

PROF. BRADY: I really do not say much about the constitution, except incidentally, because there had been some discussions of the constitution and I was rather trying to provide a background for federation rather than have a discussion of the federal constitution issue.

At the same time, I think I would venture that nothing really very significant has occurred in constitutional terms in Canada, in federal constitution development really.

MR. PERRY: With respect, Alec, to me this is a significant fact, that nothing significant has occurred. To my thinking this is just as important as that something has occurred.

PROF. BRADY: I think in part, of course, it is significant because politicians are by-passing the constitution and finding ways of doing things under the existing constitution.

MR. PERRY: Sure.

PROF. BRADY: And federalism in Canada since the war has consisted really of actions that could be taken under the constitution but





do not greatly affect it, but they are very important actions from the point of view of the functioning of the federation.

MR. PERRY: Many views are that this is the way to go about things, but I do not think we want to get into that discussion. All I was wondering is whether this is not a very relevant part of our background.

PROF. BRADY: It is rather relevant, agreed. It is related to the suggestions I make right at the end of the paper about avoiding the concentration, let us say, on amendment of the constitution, because in a sense that is not the most relevant thing to engage our attention at the present time.

PROF. CONWAY: The question arises, it seems to me, Mr. Chairman, in connection with the last paragraph on page 36, as to how you can re-orient the thought and outlook of English-speaking Canadians as to the French fact and all its complexities and subtleties, without stating in some kind of document a new re-orientation. If that is what we want - and I could not agree more - the re-orientation of popular outlook of English-speaking Canadians, then the question is: How do we get that without some - not retreating to the barricades - but some dramatic, imaginative gesture, which it seems to me must inevitably involve a re-statement of the constitution.



PROF. MEISEL: No, it seems to me that the re-statement of the constitution would require a total re-definition of everything. We cannot agree on this. Where we can make the dramatic gestures and statements is within certain well-defined limits where there are common interests between different regions of the country, not always involving necessarily Quebec (it may be B.C. and other regions) but where there are from the functional point of view certain areas where a group of governments or a government can take concerted action.

Then I think you make an agreement and you give it publicity. You use your public relations skills, your "Seven Days" or whatever it is, and you really get everybody steamed up over a modest common venture.

If you try to do it for everything, you cannot get agreement. I do not think the conditions are such in the country now that you could, if you sat down and re-defined the whole thing, that you could get the sort of agreement that is wanted; and it might make it worse because then the differences that do exist would become publicized, conditions would harden, positions would harden, and I think it would be more difficult

It seems to me that the thing that we really ought to be aiming at is to play for time. To some extent the problems of the re-definition





of the place of Quebec or French Canada in Canadian society is linked to the backward economic conditions, if you like, in the Province of Quebec, which limit the power of decision-making that Quebecers have. If we get time in which the Quebec economy can really develop more fully and the people in Quebec become better trained in the skills required for modern industrialized society, then I think a lot of Quebecers would be much less sensitive about these outward forms than they are now.

My guess would be that our most fruitful avenue is to make ad hoc agreements on a number of issues and not to try to re-define the whole thing until, if you like, the conditions in Quebec have become more similar to the rest of the country, and at least in economic and, sort of, professional skill terms.

PROF. BRADY: I agree with every word John Meisel said. I think the Fulton-Favreau formula illustrates some of the difficulties. Here was something very specific, it was interesting from the point of view of the nation as a whole, but you tried to get an amending formula a number of times and you did not succeed. It was thought that in the autumn of 1964 you had agreement, and the agreement disintegrated. I think it illustrated the difficulty, you see.

Here Quebec played a pretty decisive part, because it is not sure really that it wants



not simply that formula: it is not sure what it wants about the constitution.

I think if you had a grand constitutional convention in the manner that is advocated by Mr. Simonet or Mr. Diefenbaker and others, you would not get agreement really upon vital things.

THE CHAIRMAN: May I ask perhaps John or someone else here if they can clarify this for me? I made an observation very much as you did, John, at the Montebello conference last autumn, and Mr. Faribeu went after me in very strong terms, the gist of which was that this was an Anglo-Saxon view of the problem.

Now, in terms of what you said, this suggests that events, if proceeding in a certain way, might come to grips with the problem. My question is: Does the French Canadian look upon the constitution and the instrument of the constitution in different terms from what English-speaking Canada does, vis-a-vis its importance per se? And, therefore, is there both a logical and a pragmatic problem about the constitution, so to speak?

PROF. MEISEL: I think there is, but I think we really have to look at two almost unrelated - or they are related to some extent - aspects of the problem. One is the traditional argument that the Latin is more given to defining with precision his situation; that he does not like this "ad hoc-ery"; furthermore that there has



been the argument put forward in Quebec that unless you enshrine some of these arrangements into a fundamental document, each generation of French Canadians as to re-fight the old battles; and that, therefore, you have to guarantee certain things once and for all by re-defining the constitution in a way which would give Quebec the place it wants.

My impression is that right now this is the kind of argument that occurs to Jacques-Yvan Morin and those people who are enormously interested verbalizers. I think this is what this group is concerned at.

My impression is that people like Claude Morin say: "Well, you know, this is not essential at all. What we want is to make practical decisions; we want to get on with what we are doing in Quebec. Let us get with it".

It seems to me that out of these two schools of thought there comes for Ontario a very important, really, conclusion: namely, that it is futile to expect that purely intellectual definition to succeed right now, given the lack of unanimity in Quebec, the strong opposition to some Quebec claims in some parts of the country, and, if you like, lack of unanimity outside Quebec.

In other words, at the present time to try to define this situation the way, say, Jacques-Yvan Morin wants it, would fail and only make





matters worse.

So I think we have to concentrate very hard on the other side, but not simply assume we can muddle along doing the best we can from day to day, and that is where we ought to put our most creative effort. I think we ought to try to initiate practical arrangements, practical schemes, collaborative efforts of one kind or another, which would get into the limelight and which would to some extent crowd out the sort of pure constitutional arguments or ambitions from the pages of the newspapers and from public debate, that what people talk about is the arrangements between Quebec and Ontario, arrangement between Ottawa and the provinces, and so on.

THE CHAIRMAN: In other words, we should be concentrating on the fabric of the country rather than the form of the constitution.

PROF. MEISEL: I think so. I think the solution is changes in sociological, economic, political terms, and not in constitutional terms. I do not think we should say "We must not change the constitution" (this obviously would be the wrong thing to do); but I think the thing to do is simply to say "Yes, some day the constitution will have to be adjusted, but let us for the moment work within it as best we can since we have no agreement on the final adjustment".

DEAN LEDERMAN: I would agree with you



entirely. The constitutional changes, when and if they come, have to reflect the settlement of some of these fundamental socio-economic developments; and the lack of agreement that there is in this country on these things at the present time leads to the conclusion that Dr. Brady makes at the end of his paper (which is a paper on, I take it, modern political realism in Canada) where he ends up with that conclusion that is pretty well the conclusion that John Meisel has been stating: that for the present we should maintain the constitution pretty much as it is without taking the position that it is unchangeable and never going to be changed.

I suppose there are some things - well, for instance, the economic sub-committee spoke of consumption taxes and of transferring them to the provinces as a way of meeting the revenue problem of the provinces without depriving the federal government of its power or its levers over the national economy. This can be done within the limits of the present constitution, though, as Mr. Perry pointed out, you cannot guarantee to the provinces that the federal authorities will leave them alone and won't try to take some of the field back at a later time when it comes under more pressure, so long as the matter rests merely on mutual agreement; but if the transfer proves fruitful and beneficial when it is put on





the basis of mutual agreement then you might reach a point where you write it into the taxing clauses of the constitution. You would have tried it, experimented with it, and found that it works. At that point a constitutional change would be safe.

MR. PERRY: If there is anything in our document which leads to this objection, I would like to amend it immediately.

PROF. FOX: May I add a couple of points? I would just like to amplify one or two things John Meisel said. I would like to agree entirely with John's assessment of the problem. That is my own assessment of it too, almost word for word, I would think.

The point he raised about whether certain elements in Quebec want a constitutional change, I think this is a point on which there are at least two different positions in Quebec. I think generally the minority prefers to have some protection, and it is quite true that the Faribeu reply to you would be typical of many Quebec representatives to the English Canadian position: "It's all very well for you fellows to say 'Let us muddle through' because you, of course, are in the superior position".

I have been interested to note recently that Mr. Lesage over a period of months has changed from desiring a constitutional change to saying categorically he does not want a



constitutional change. I would think we would be wise to agree with that point of view. I think it marks a change from the negative phase of Quebec thinking (and I think Dr. Brady brings this out in his paper) where the minority feels it must safeguard what it has, to the positive phase of progress and development where you do not want to be hemmed and bound in by the constitution. This is my interpretation, among other political factors, of why Lesage departed from the Fulton-Favreau formula. He is on the offensive from the defensive. I think it is a very significant stage in the development of Quebec's position.

Then the third point, I would like to simply emphasize what Dr. Brady and John Meisel have already said, and that is that it seems to me the notion of having a constitutional convention is just absurd. If you compare it to the work of this Committee, look at the difficulty we have in arriving at even any sort of preliminary position, agreed position on some of these issues. Imagine that we were provincial premiers backed up by electorates and we had to arrive at decisions on the issues we have been discussing so amiably for a year!

It is inconceivable to me that you could sit down and re-write the B.N.A. Act. I think it is only constitutional idealists and unrealistic people like Jacques-Yvan Morin who even conceive



that idea.

THE CHAIRMAN: What about Mr. Diefenbaker?

PROF. FOX: I think with Mr. Diefenbaker this is an aspect of his personality - and I do not mean to be critical but I just like to understand it - that he would like to have a forum in which he might posture and so on, and a constitutional convention would provide him with this but it would not advance the solution of our problem and I think it would retard it.

At this point it seems to me it is very important for this Committee to discuss this problem and develop lines of thinking, because I notice in the excerpts you sent us that Mr. Robarts is still on the subject of having some kind of a meeting (it was not too clear to me) and I think we ought to give him some advice on that particular point.

THE CHAIRMAN: I would like to say a word on that, if I may butt in again. This discussion we just had, it seems to me, can lead to a very fruitful form of advice (that immediate discussion we have had) for Mr. Robarts.

Here is a view about the constitution, if we agree. However, it leaves one point in his thinking unanswered. You recall the evening we spent with him, he came back once or twice to the question about the amending formula as such





and the way it seemed to bother him and other people that you need to go to Westminster. Whether one ever did go or not, the fact of having to go. So that point still remains.

In his speech in winding up the Speech from the Throne last month we had some talk about that before that event took place. You may recall that when he spoke at Varsity Arena last October during the election campaign there was some real ambiguity as to whether he was advocating a constitutional conference too. He did say in the winding-up speech on the Speech from the Throne - differentiated between a broad conference on confederation (by which I think he means an attempt to do what we are doing here, to get at what is troubling people and what stands between them) but not a constitutional assembly or conference.

PROF. FOX: In other words, he wants a discussion?

THE CHAIRMAN: Yes.

PROF. FOX: But surely he has that with provincial premiers at these provincial conferences.

THE CHAIRMAN: Yes, except he would like to give it a little more dramatic attention; that it was not a conference to chew over Medicare or university financing, but a conference or a seminar (so to speak) on what were the problems of the federal government, what stood between us,



what areas may we be thinking about, what things may we be doing?

PROF. BRADY: That is a very sensible idea. The federal-provincial conference was centred around one or two themes, some program the federal government introduced - Medicare, whatever it may be - and that takes up most of the time. The conferences only last a few days and they dissolve. I do not think they have very much of a general discussion, except that in the opening speeches some of the premiers may range quite widely and discuss what they consider to be the picture of the federation. A man like Roblin, for example, is given to that sort of discussion. It might be better if the premiers discussed with you what is necessary in their federation, how it might work and so on.

PROF. FOX: Mind you, this goes on all the time. The Couchiching conference last summer was on federalism, and you had three or four significant people appear there presenting the Quebec point of view - Gerin LaJoie, Daniel Johnson.

PROF. BRADY: Did you have provincial people outside Quebec?

PROF. FOX: No.

THE CHAIRMAN: Unfortunately there were no Ontario politicians there from the government.

PROF. McWHINNEY: Were they invited?





PROF. FOX: All I am saying - this goes on, though it might be amplified, but I think the line would have to be drawn, or else I think the point John alluded to would intervene, and that is people would make public statements they would like to be identified with and they cannot all get out of their positions as expeditiously as Mr. Lesage on the Fulton-Favreau formula. This was a back-spring of fantastic proportions.

PROF. MEISEL: For a big man.

PROF. CONWAY: I was only saying, Mr. Chairman, that the desirability of the amending or changing the constitution is certainly a matter of debate, but one reason we cannot really accept because we are not doing anything about it is/people cannot agree; because, after all, John MacDonald, Etienne Cartier and George Brown did in fact agree on the British North America Act. In fact if there were not a possibility of agreement among people of different points of view, there would not be any constitutions anywhere.

PROF. MEISEL: I suppose the answer to that is that it depends a lot on whether the present circumstances are intolerable. It is my impression that neither for the non-French Canadians and not even for the French Canadians now are the present circumstances intolerable. There are some people who would argue that they are, but in fact I think political opinion, as certainly



it is expressed by Premier Lesage, would suggest it is not intolerable. Therefore, so long as the status quo is not intolerable the impetus for agreement or the reconciliation of irreconcilable positions will not take place, because there is not the compulsion.

I would like to expand that one point further, that I say the Faribeu's and the Jacques-Yvan Morin's are not unimportant people. Therefore, I think an effort should be made to present the position that we have been stating from time to time to people in French Canada and elsewhere.

In other words, I think it would be useful on both formal and informal occasions, if people like Mr. Robarts did say why he thinks perhaps we had better make the best of it - and particularly I think it could be done whenever some agreement is reached in a particular area where a solution has been found to a particular problem, and I think it should be pointed out that that solution has been found within the existing constitutional framework. It may be obvious, but it still should be underlined I think.

PROF. McWHINNEY: There is nothing especially novel in this thought. If you go back to the Charlottetown debates of '64, this is the constant and recurring theme of every speaker from /English-speaking Canada. There is about five years of discussion along these lines. I think



we should caution against leaving Mr. Faribeu and Jacques-Yvan Morin to the same game. There is compulsion, part political, philosophical and in terms of age. Mr. Faribeu is a very distinguished senior lawyer in Quebec. He is politically Conservative, and he is certainly not a wild revolutionary, even if Jacques-Yvan to some people may appear this way.

I think there are two separate points. One is, as a professional committee we reach a conclusion which certainly any constitutional lawyer would reach too, that there are times when it is right to make constitutions or codes, and a great majority of times when it is not. I think you do not get consensus on constitutions or codes or things of that sort except after periods of great crisis or when the problem's thrust is upon you and somebody says: "We will give you independence, but you get a constitution first". Things of that sort can happen.

We can give technical advice along the lines of Professor Brady's last paragraph, but it must also be recognized that politically the Premier, as John Conway suggests, may have to respond to a demand for a convention or something less than this. So I suggest we should also include methods of meeting this psychological urge to have a dialogue.

When you come to another area, for example





east-west relations, there is no question that these very pragmatic methods - the adhoc problems warranted step-by-step solutions in terms of Russian-western discussions of disarmament and the like, but a dialogue continues. It is very important to both groups of participants, the sort of philosophical dialogue, somewhat emotional, more involved, but it seemed to be a very useful function.

So perhaps Premier Robarts' feeling that he wants some sort of conference is not really so ridiculous. It may be that it satisfies the urge to have a dialogue currently on this more than the pragmatic, problem-oriented approach that Mr. Lesage and others seem to be going into.

I take it that Professor Brady's feeling that was/a sort of public dominion-provincial conference on the constitution might be helpful. Was that your feeling?

PROF. BRADY: No, not necessarily. As a matter of fact it may be a good thing. I don't know what the provincial premiers talk about when they meet in their provincial conferences. They discuss more than the weather. Perhaps they do discuss the problems of confederation. Do you know, Ian?

THE CHAIRMAN: I have only been to one. Ray Farrell has been to many.

MR. FARRELL: They stay clear of things that get into the federal field. They



do not want to seem to be in the position of trying to push the federal government around at their conferences, so they stick to things that involve the provinces only, such as inter-provincial highway licences and arrangements.

PROF. BRADY: On that level?

MR. FARRELL: Things like that, but they try to stay away from things that would involve federal matters.

THE CHAIRMAN: Common university standards for admission.

MR. FARRELL: Educational.

MR. STEVENSON: Common sales tax objectives.

THE CHAIRMAN: Pensions.

MR. FARRELL: Reciprocal sales tax arrangements.

THE CHAIRMAN: Long discussions about the women who go from Toronto to Montreal to buy fur coats, and then have them shipped back to Toronto to avoid sales tax.

PROF. McWHINNEY: What does Mr. Robarts have in mind? Did he discuss it with you?

THE CHAIRMAN: On this conference?

PROF. McWHINNEY: Yes.

THE CHAIRMAN: As far as I know it is not something that he has looked upon in rigid, specific terms, but I would say more a feeling - and perhaps something of a romantic feeling too





in view of the date - that the Fathers managed to chart a course for a hundred years.

Admittedly this takes you right into the constitutional position again, but if there are things troubling us we should have periodic examinations of federalism - not approaching it from problem X, Y and Z, but approaching it from the meaning of federalism and the issues that are standing in the way of progress in the country.

PROF. CREIGHTON: Mr. Chairman, the constitutional committee thought it might be useful, as a contribution to this business of the possible discussion or general debate over the constitution, to draw attention of the Ontario Government to the enormous difficulties which lie in the way of anybody who tries to think of a constitutional convention, so as to get that thing out of the way.

Of course, as soon as you begin to approach it and look at it historically, enormous problems emerge. How are these people appointed? What do they represent? How are they to decide the issues in conference? How is this decision to be ratified? And so forth. You can go on indefinitely.

It is obvious that people like Diefenbaker are talking of the constitutional convention without the remotest idea of what is involved, and perhaps with some knowledge of it but deliberately evading the problems simply for political reasons.



THE CHAIRMAN: We have our Mespur paper and some of the discussion went into it. We have never really carried that forward.

PROF. CREIGHTON: It is parallel to the present line of discussion which seems, I think, to be fairly unanimous in this Committee to go along in the way that has been suggested in this basically and gradually adjusting inside the present existing constitution, and to avoid a head-on collision over principles. I think everybody agrees with that, but if Mr. Robarts wants ideas, arguments, in support of that position, perhaps we could develop these in this way.

THE CHAIRMAN: I think it would be useful if we could develop a position fairly clearly to go forward from this Committee, which would sum up the flavour of what I think we have generally agreed on here this morning, with the reasons, so that he in his speech or some occasion can work through the thoughts of this.

DEAN LEDERMAN: Mr. Chairman that four-page paper on the Fulton-Favreau formula is just an outline for discussion really which was circulated, and which starts to carry the purpose of the Mespur paper further.

Now, the question I would like to ask at this point is this. We seem to be generally agreed that one maintains and defends in the main the constitutional status quo - and by constitution



I mean the basic institutions and the basic processes of the constitution as they stand at the present time. To what extent ought we to attempt to document this for the Prime Minister's assistance?

PROF. McWHINNEY: That is a bad word, status quo, even if you re-define it. That is not, I think, your position anyway.

DEAN LEDERMAN: Put it this way. Our position is we are against major constitutional change or major constitutional re-writing at the present time.

PROF. McWHINNEY: Yes, re-writing.

DEAN LEDERMAN: That perhaps suggests it more accurately without saying it can never come. We are not saying it may never come; we are not saying it should not come. We are saying this is not the moment.

Now, to what extent does one develop the implications of constitutional change and the implications of avoiding it at the present time in terms of the basic institutions and the basic processes of constitution? If you want a more elaborate and fuller discussion of amendment alternatives to the Fulton-Favreau formula, this can be done.

I made a list of topics last night, and perhaps I might take a minute and read them out.

THE CHAIRMAN: Go ahead.

DEAN LEDERMAN: This may be all west.





I don't know. On the other hand, this may be the sort of documentation that you want. I just headed up the list "Basic Institutions and Processes of the Constitution" - in other words, the anatomy and the physiology of the constitution, to use the analogy from medical metaphors.

No. 1 - The Legislatures and Executives of the federation. I would say that these are topics that might be dealt with separately or that you might try to put together in one sort of review document somewhat like the excellent document that the economic sub-committee produced of the economic field, but this being in the field of basic institutions and processes. First, the Legislatures and Executives of the Federation.

Here you would be concerned with the democratic principle as it is manifested in the House of Commons and the provincial legislative assemblies, the Senate composition and function of the second chamber. We already have a major study commissioned on that subject by Professor Watts who is to produce something there.

"Responsible Government in the Cabinet System" and one of the general issues which is involved here is: To what extent does majority rule prevail and to what extent are you going to permit minority veto?

Dr. Forsey has been getting off on this track with his major article in the Globe on voting



in and opting out. He is getting at some of the implications that exist here.

Then, secondly, I have put down "The Amendment of the Constitution", and this falls into two parts - procedure and substance. Now, on procedure for amendment, one would talk of the Fulton-Favreau formula, the alternatives to it, and the problem of bringing the constitution home. Then on the procedural side, on the substantive side, you could get into changes in the constitution (either minor or major) which you would want to bring about by the amending process.

Then, thirdly, I put down "Constitutional Interpretation of the Supreme Court of Canada", and Professor McWhinney did a paper on that. One of my papers on it is in the record, and we have got resolutions and an explanation established on that point.

Fourth, I put down "Civil Liberties and Minority Rights". There is a problem here about whether you are talking about individual rights or group rights. It is one thing, for instance, to ensure a man the right to vote. It is pretty simple. But, to ensure, say, a minority group in Manitoba the right to education in the French language in the elementary and secondary schools, this is a much more complex thing, and it involves concrete administrative apparatus. It involves a great deal





of public finance. It is a much more complicated thing than just saying to X: "You have the right to vote".

In other words, this phrase "Civil Liberties and Minority Rights" covers a great variety of things and very complicated things; but anyway this has to be faced, I think, and you have to define some of these rights. Then you have to deal with the question, having provided such rights, of how to protect them.

Then you get into the problem of the special entrenched Bill of Rights on the American model, or do we rest on parliamentary devices as the English do, or do we do something in between? In this connection, I must say I am just appalled by what the Committee of Sixty have said. It is superficial and confused. I will speak to that later. Anyway, there is "Civil Liberties and Minority Rights" and the problem of definition here.

Then there is the whole field of Co-operative Federalism. Now, co-operative federalism to me means keeping to the arrangement that rests on consent, that rests on agreement. That is, neither party to the arrangement is being told by the constitution they must do this or they must not do it. It is something they may or may not do, and they have made an arrangement to do it which rests on consent.

This gets you into the methods and forms



of agreement: dominion-provincial conferences, specialized dominion-provincial committees, committees of ministers or committees of civil servants, delegation of powers, legislation by reference or adoption, and many forms of informal collaboration agreement consultation.

Now, these arrangements resting on consent, there is the problem of how to maintain consent and to continue the arrangement.

Then the final topic I have put down was "International Relations of the Federal Government and the Provincial Governments". What part does the federal government play in the conduct of our international relations, what part should it play, and what part do the provincial governments play?

This is a very sweeping range of things, and yet when we talk either about maintaining the constitution as it is for a time, then we have to defend doing these things the way we are doing them now; or, if we are talking of changing it, then under some such headings as these you talk about the changes.

Would it be practical for the constitutional sub-committee to attempt something like this? Is this what is wanted? If it is and if you want the constitutional sub-committee to do something like this, I would suggest that we ought to hold some special meetings, and that the committee



ought to be augmented by members of the Advisory Committee who have special expertise in this field and who have not up to this point been sitting with the constitutional sub-committee. I would think of Professors Brady, Fox and Meisel, and of Mr. Seguin.

If the constitutional sub-committee is going to attempt this, then I think the plan for doing it, as I say, ought to be worked out in the augmented committee.

THE CHAIRMAN: I do not know how much of a labour that would be, but everything you said I think would be most timely.

MR. MAGONE: Isn't Parliament going to have to get the competent power to amend the constitution back here? When is that going to happen? No one knows. They have been trying to do it now for nearly fifty years.

PROF. McWHINNEY: Is it the high priority any more though, really? It is at the political level.

MR. MAGONE: I am just wondering if anyone wants to monkey with the constitution by re-writing it and send that to Westminster and have it down there again. I would not think so. I would think if they want a new constitution, they want it passed by the people here and not by the Imperial Parliament.

PROF. McWHINNEY: It is not original





to say, if you approve of any one of Frank Scott's articles fifteen years ago, that if you set up a new constitution there would not be, in my view, any necessity to go back to Westminster and get it adopted. It could be done through the exercise of local constituent power.

What I think was part of the dynamic of Alec Brady's paper was the suggestion which I think certainly in the constitutional committee we recognized, that within the existing incidental framework massive changes, either in favour of the dominion or in favour of the provinces, have taken place and can take place and will continue to take place.

I suppose this is why I suggested, Bill, saying "status quo" did not really reflect the view. I suppose our position would be the constitution is essentially very technical as it is. Lots of things are happening, and it is just not necessary to take the step of the big constituent convention to have change go on. It will occur, and will occur perhaps much more effectively, under existing institutional arrangements.

I would frankly suggest it is no longer really of great importance to get a constitutional amending machinery.

THE CHAIRMAN: I would like to go back to Paul's earlier observation about the change



in the tenor of Mr. Lesage's remarks. Has this died away because the experience of the Fulton-Favreau formula indicated it was just too explosive for anyone, or has it progressed on other fronts? Is it a quietening of attitude?

PROF. FOX: In Quebec?

THE CHAIRMAN: Yes.

PROF. FOX: My interpretation of it is that Quebec traditionally for a hundred years and prior to that even in other constitutional arrangements, has been worried about preserving its rights, and this has been a negative attitude. It has been the traditional idea of the minority that fears for the maintenance of itself and wants itself protected, and therefore wants speakers to predominate on the negative outlook.

What I am suggesting is that Mr. Lesage's change pointed out that this represents a fundamental change in the nature of the Quebec economy and Quebec development. I think Quebec now wants, as typified by Mr. Lesage, wants to expand and therefore it did not want a Fulton-Favreau formula which would prevent extension of its powers by the veto of a province as small as Prince Edward Island. This certainly is a shift from the negative attitude to a very positive attitude, and I think it is really a pretty clear situation as far as Mr. Lesage is concerned.

Now, admittedly, there are all sorts of





other factors involved, particularly the political fact that Johnson got him over a barrel on the thing and he had to get out of it, but I think there is also this very real change in the attitude of people like Mr. Lesage.

There are still people who think negatively, and others such as the separatists who, I suppose, think nihilistically; but I think the significant position in this is the Lesage position, because he represents the government of the province. Therefore this is the one on which we should base our particular thinking about what should be done.

PROF. BRADY: Lesage's attitude is tributary actually/of the extent of the current discussion in Quebec.

PROF. FOX: It represents a new confidence.

PROF. BRADY: About French Canada's survival. Lesage was very strongly in favour of the formula. I am not so sure that Gerin LaJoie was, but Lesage was. Then when he got back and time passed and Johnson started this tremendous campaign and got the collaboration of various individuals who never had any association with the Union Nationale in criticizing the formula, Lesage, I think, realized that here was a trend of feeling and outlook that it was unwise for his government to buck. I think this indicates the ferment



of thinking and the strength of it on political matters in Quebec.

PROF. MCWHINNEY: There is also a very important technical and professional aspect to this. I do not think you can under-estimate the effect of dialogues between professors and others. For example, take the law school here. We have had two big conferences with Quebec lawyers, one involving Morin's group and the other most recently with Mr. Faribeu and his contemporaries.

I do not think it was fully appreciated among Quebec professors of constitutional law until very recently, that there were many ways of changing constitutions apart from, say, having a big constituent assembly or getting a Fulton-Favreau formula.

One of the things that we hammered home in a series of debates and dialogues was that constitutions change all the time; that there were three or four different methods of changing them, and that the least effective methods in terms of past experience in federal states are these formal codes like the Fulton-Favreau formula or constituent assemblies.

One of the things we tried to communicate was that change occurs anyway, and that these informal agencies allow tremendous change to occur.

Now, I think, for example, Professor Morin's views have changed. Although he still



is pressing some formal changes, he is focussing on statutory change which would not require a Fulton-Favreau formula. There are many areas where you can make dramatic changes in our constitution by simple legislation.

As far as Mr. Faribeu and others are concerned, I do not think they really have realized (why should they?) for example, that in the United States big changes have not occurred through constitutional amendment; or that in other federal constitutions the amending machinery, rightly or wrongly, is very rarely used even in countries where it is readily available for use.

So I say there has been a big technical change, but part of the technical change has been the communication, I think, on the part of English-speaking scholars of two points. One, that constitutions will change anyway, whether we like it or not (the meaning of words changes) and the formal changes are not effective methods. Two, that the issue of what change you want is largely a matter for debate. Some people may want change in favour of centralization; some in favour of decentralization; but that is another question.

The first and technical point is part of the new thinking, and I would separate it in a way from Mr. Lesage's or others' views on what Quebec has to gain economically by leaving things as they are. It just happens, I think, at the





level of technical sophistication that there are quite new attitudes, and I think this is really very important and one of the most refreshing new developments in the dialogue.

PROF. MEISEL: Mr. Chairman, arising from what Professors Brady and McWhinney said, I would like to come back to Dean Lederman's extremely interesting and useful scheme of analysis.

I fully subscribe to this and I think we must attempt something of the kind he has suggested, but I would like to push it a little further than he has indicated.

Contemporary political science has become very much concerned about the informal relationships which permit some of the more formal arrangements to function. This has arisen in part out of the preoccupation with new countries where the whole process of nation-building has gone on under circumstances where the traditional structures were not present.

It seems to me that it would be extremely useful if we added to the kind of problems that Dean Lederman has raised, some of the informal relationships and arrangements that occur in Canada, which provide the kind of breadth within which the formal institutions really take shape and grow.

I think it would be extremely useful to do some fairly new kind of analysis, if we could, to look at what in fact the kind of thing



Mr. McWhinney, for instance mentioned - a group of lawyers getting together quite informally in a law school and talking. These are also very important political institutions that I think our committee ought to look at, identify, and also make some recommendation about.

I think we could probably encourage informal arrangements to develop which would to some extent perhaps compensate for some of the rigidities in the formal structure.

This takes me back another step to our general agreement that we should not attempt now a holus-bolus revision of the B.N.A. Act. It seems to me that while this is a perfectly sound position, it is one that is open to misinterpretation, in that it smacks very much of a standard package or very conservative position. I think it is very important that, while adopting it, we make every effort to indicate not only to people in Quebec but to Canadians everywhere else, that we must nevertheless re-define a lot of relationships, and that while we want to change the constitution we are not at all opposed to new economic arrangements, new governmental arrangements and so on.

I think there is a danger, in opposing changes to the B.N.A. Act, of appearing to be terribly intransigent; and that it is very important that if the Government of Ontario takes





a position on the B.N.A. Act and says: "Let us not go into any changes now", that it it also equally strongly and repeatedly says: "This does not mean, however, we do not want to re-define all sorts of things". I think it is very important that we do not forget this, because it is so easy to forget it if you are not anxious to make changes.

PROF. BRADY: Another related suggestion (and I suspect Dean Lederman had this in mind but he did not mention it) is that at the very outset the nature of the constitution should be defined. There is a certain vagueness in the public mind as to what the constitution actually is. Some think the British North America Act is the constitution. I think a little discussion on that, a little clarification on what the constitution actually is, would be quite relevant here.

DEAN LEDERMAN: Yes. In other words, a proper introduction to a detailed review. I would agree with that.

PROF. CREIGHTON: I think Professor Meisel's suggestion is excellent. I wonder if he could give us some specific examples of the kind of things that he thinks should be explored?

PROF. MEISEL: The aspects of the political system that I had in mind really concern the relations that take place between individuals, firms, public institutions, where Canadians from



different parts of the country and from different provinces meet informally, overcome differences of opinion, debate common policies, in a world which is completely seemingly unrelated to the constitutional and purely political aspects of our lives, but which in fact creates attitudes and responses of one group towards another which permit us to live together in some sort of harmony

PROF. CREIGHTON: Unfortunately, of course, there have been a good many examples recently of the break-up of such national organizations between French Canada and English-speaking Canada, including university organizations and others, as you know.

PROF. MEISEL: I am doing a study of this right now, and there are some very interesting things that come to light. While there have been break-ups, there have also been in some cases reunions, and I think it is very instructive to look at the conditions under which this kind of development occurs.

PROF. CREIGHTON: We accepted the present constitution - status quo if you like - on the assumption that these adjustments inside the existing framework would continue to take place, these governmental or financial or economic adjustments of one kind and another. Now you are adding another non-political category to this kind of adjustment, between groups of societies and organizations inside the nation.

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THE CHAIRMAN: I think, John Conway, you launched us on this course with a rather different view of the constitutional problem. Do you want to come back here now after what has intervened?

PROF. CONWAY: There are several points I could bring up. I must say that when I consider this problem, one thing constantly in my mind is that I have no idea about what the people of Canada, French, English or any other kind -- I do not expect them either to understand the constitution or to have any recommendations about it. I do not know what their sentiments are or what their feelings are about this country and how it ought to be organized.

It seems to me there might be an untapped resource there, and I am not at all convinced, or at least there is no evidence that I have been able to find that would indicate that animosity between French and English-speaking Canadians is acute, as some publicists and politicians on both sides make it out to be.

Therefore when I raised my question about the constitution, it is with that sort of consideration in mind. You caught me slightly unawares, Mr. Chairman.

THE CHAIRMAN: I am sorry.

PROF. CONWAY: However, that is a point that





is a point that I am very curious about. If you put the problem that way, the assumption that an instrument designed for a very small group of people in the middle of the 19th Century in certain historical circumstances, is entirely appropriate for a society of almost 20 million people one hundred years later, that needs to be proved. One cannot take that on faith.

As I said, when someone said that one of the features of international politics of our time is a rebirth of nationalism, I pointed out that that is true, but that is really only true with ~~ex~~-colonial countries, former colonies, which we are not in that sense at all.

We may very properly belong, if this situation is really looked into, much more to the way Spaak looks at things or the European unionists look at it. Then we belong to emerging nations. I cannot quite see Canada as an emerging new nation with these strong and dangerous sentiments.

If I have more thoughts as the discussion proceeds, Mr. Chairman, I will bring them forward.

THE CHAIRMAN: Roget, do you have any remarks on this discussion that has preceded?

MR. SEGUIN: I was just discussing this matter with Professor McWhinney a minute ago on the probable main reason why Lesage changed his attitude concerning the amendment of the constitution



and repatriation.

From what I could find out, I think it would be most difficult for him today to have the same formally approved by any of his own Cabinet, and that Quebec is realizing that it is gaining strength from day to day economically and in the education of its people.

In fact in education we have the same criticism on the French side in Ontario, that we lose too many of our people after the 8th, 9th or 10th year, and Quebec have the same problem in fact. The opportunities were not given to them for non-academic subjects, and I think a lot of people in Quebec are realizing that they will be in a better bargaining position in three or four years from now when they sit at the table to discuss Confederation.

Not necessarily does that mean they are becoming Republicans or that they definitely wish to have an associate state. On the other hand, they are also looking at English Canada to see what it will be doing for its minorities. That, I can tell you, because that I am asked every day by people from Quebec in the government and outside the government who can influence the government. They wish to see what the reaction will be of English-speaking Canada to this problem.

That is all I have to say just now. I may





during the discussion have more comments.

MR. PERRY: I wonder if I might just say one thing. It is quite obvious it is fairly important to nearly all of us here that we are counting on a healthy, bountiful economic development in Quebec to cure most of its problems. I certainly subscribe to this.

It would be self-defeating, however, if there were any particular aspect of the present constitution which were working to impede this new element. If we are being realistic in this, we would be seeking out those aspects of the constitution and suggesting that they be changed.

I am not a constitutional expert. Offhand I cannot think of any feature of the present arrangements which has this effect. I could go down fighting for the present distribution of tax powers except for possible minor changes.

I wonder if the constitutional committee might not focus on this particular aspect as being one of the really practical things that should be looked at if we are committed to a more fully developed economy in Quebec as the answer to many of the problems.

PROF. CREIGHTON: Mr. Chairman, the programme which Dean Lederman has laid out before us is a very comprehensive programme indeed, and if an augmented constitutional committee undertook to go



through those various divisions, it would certainly take a good deal of work. Yet I do not see how it is possible to arrive at a general view of the whole problem which corresponds with the picture which the economic and fiscal committee has drawn for us, unless we undertake such a work.

It seems to me that, as I said indeed yesterday, that whereas a general conversation of this kind is useful perhaps within limits, it is far more useful to get down to a more particularized and itemized discussion in which these things emerge as concrete and particular problems; but it is a huge effort, I think, or at least it is a very large one, and if this is the way in which it is to be done I think we ought to know now, or at least I think we ought to know soon, because this will certainly take, I think, a good deal of time.

There are other commitments which I suppose all of us have, and this cannot be discussed hurriedly or changed radically all of a sudden. On the other hand, we could~~say~~, you see, that we agree in general that the constitution is acceptable at the moment; that we wish to avoid major changes for a period ~~unknown~~; that we think in the meantime adjustments can be made as between governments or as between groups, societies, organizations and so on; and that some



kind of compromise can be carried out in that way, and we might let all this go and simply tackle items of that kind.

Of course, in part, I suppose the Economic and Fiscal committee has already indicated an enormous number of ways in which there have been important adjustments and it is going on in this fashion.

However, if we want to present the Province of Ontario with a full spectrum of this whole problem to justify this assumption that the constitution as it presently stands is what Ontario ought to stand for, then I think we have got to do this.

We have seen the generalities of the problem. For example, Professor Brady's paper is an illuminating statement of those things. I think it is a personal position paper. I might happen to disagree, I do with some of the generalizations in it; but it does not affect the question of the precise position with respect to agreed difficulties or institutions or processes -- the kind of thing which Bill Lederman has described -- except in one or two cases. It seems to me we ought to get down to that. I think we have talked through this business in generalities.

Therefore, I think this Committee ought to make a kind of decision about this. Is this the





way we are going to pursue the task in future?  
Do I represent<sup>1</sup> your views at all on that?

DEAN LEDERMAN: Yes, I agree with what you have said, Donald, and I have nothing to add.

If the Committee as a whole thinks that what we are calling the augmented constitutional sub-committee should undertake this enterprise, then I think we must attempt it -- not only attempt it, but succeed with it.

I would like to know at this time, though, because there are other commitments looming and I am prepared to give this priority of my own time in the next few months, if this is really wanted.

PROF. McWHINNEY: That is, of course, a fairly sizeable piece of work. You realize it could, with individual rapporteurs and then a rapporteur general; it could end up a treatise of 500 pages if done properly. It is possible we ought to pay attention to Mr. Perry's point, the priority issues too in terms of what we might call constitutional tension, areas where there will be pressure for change. Maybe the two could proceed simultaneously.

I would like anyone who can to correct this issue of the terminology, Donald. I think it would be better if we said we stand for the existing institutional fabric of the constitution, because



this will exclude any suggestion we stand for the status quo within the existing institutional fabric.

I have the impression, as a result of the matters that Paul mentioned and John and others, that even pressure in Quebec has shifted from institutional change, the talk of the Senate and Supreme Court, and it is now getting on to the sort of problem the Economic committee is concerned with.

You made the very forthright point that you might stand for existing tax arrangements. I just have the impression this is likely to be the area of biggest pressure; that it is possible Mr. Lesage's only orientation may be towards the re-arrangement or re-adjustment of tax powers or tax competence.

So that it is possible here, working in liaison with the Economic committee, that our Committee should be attending to problems like this, perhaps some examination of what is done with tax power in other federal systems, to have the emotional, institutional-oriented approach to constitutional change; because we get the more pragmatic emphasis on economic problems and economic expansion and the like.

I would say tax probably becomes the battle area, the area of taxation of the ---

PROF. CREIGHTON: Surely we have already





agreed with the general position taken up by the Economic and Fiscal committee and that adjustments can take place only within those limits.

PROF. McWHINNEY: I didn't think we had discussed.

MR. PERRY: I do not think we really went into it.

PROF. CREIGHTON: Anyway, there is very close agreement, a large degree of agreement about that matter.

PROF. McWHINNEY: It was suggested, we discussed first thing this morning, but I don't think really I got a range of opinions here. Was there really a consensus?

PROF. CREIGHTON: I think there was.

MR. STEVENSON: There was the question in the Economic and Fiscal sub-committee that it was suggested that perhaps a further fiscal shift from Federal Government to the Provinces might occur in some taxes. It did not say specifically whether or not they would be direct or indirect.

The question of whether or not the provinces should have the power to raise indirect sales taxes is something that is sure to be coming up in the Tax Structure Committee discussions.

PROF. CREIGHTON: This is one of the things that was recommended in this ---

MR. STEVENSON: It was not necessarily



recommended in the paper. They avoided it.

MR. PERRY: It is quite a different issue, not a very important one, I don't think.

MR. STEVENSON: But it will come up.

MR. MAGONE: I might say that from what has been discussed in these Federal-Provincial conferences on the constitution (and I have forgotten whether it was in 1960 or 1950) but the Federal Government ---

MR. PERRY: On different occasions has circulated a draft amendment which ended up being rejected by at least one province.

MR. MAGONE: It was, but there was that limit. I think it was five per cent that the Federal Government were -- and I was going to say "willing" but I don't know that that is the right word -- they did put forward the suggestion that they might consider an amendment to the Constitution, giving the provinces a right of indirect taxation.

MR. PERRY: Indirect resale tax, a very significant difference.

MR. MAGONE: But a limit of five per cent.

PROF. McWHINNEY: You could make a case, apart from what Quebec may want, you could certainly make a case in favour of Ontario taking increased tax competence, say, rather than relying on Federal generosity in terms of grants with or without conditions. So that I would think here is



a priority in terms of change both within the existing constitutional fabric and even perhaps involving a change of the ---

MR. PERRY: This is one area in which the issues have been clarified by at least one hundred years of discussion. We talked for half an hour yesterday of the problem of control of water resources, which is becoming a very dramatic issue on this whole continent.

MR. MAGONE: Is there a problem there, I mean, a Dominion-Provincial problem?

MR. PERRY: Yes.

PROF. McWHINNEY: British Columbia have a Dominion problem. I do not know if there is a Quebec-Ontario-Dominion problem. Certainly B.C. is raising it.

MR. MAGONE: I mean constitutional.

PROF. McWHINNEY: Yes.

MR. PERRY: There has been evolved a scheme for supplying water from James Bay and moving it down through the Ontario river system and Great Lakes which engineers say is completely practical. This may never happen, simply because of the confusion of authority as to who should be doing it. All I have to do is bring in trade now, and we are right down to fundamentals.

MR. MAGONE: British Columbia have an Act for years in which they claim ownership of the water





resources within the province, and it has never been disputed that they have not that right.

PROF. McWHINNEY: It was said at Vancouver last year that any river rising solely within British Columbia and not running in any other province was not merely within their control but brought within their control, for example, the articulation of power and arrangements with other countries and so on. I was quite fascinated to hear this point argued so strongly.

MR. MAGONE: I have a very solid recollection -- I went into this problem maybe twenty years ago in connection with the Trent Valley System, and the ownership of water was one of the points that were raised at that time, -- that there is an Opinion in the Hydro-Electric Power Commission's files, a joint Opinion by Aime Geffrion, Eugene LaFleur and W.N.Tilley, in which they said, some of them acting for us and the Dominion Government, they said that the ownership of water is in the provinces -- a pretty powerful opinion.

PROF. McWHINNEY: The ownership of power coming from them?

MR. MAGONE: Ownership of the water.

PROF. McWHINNEY: The next step is the more interesting one.

DEAN DILLON: This is not a logical way of looking at the thing. The water resources are just



fundamental to the further development not only of the provinces but the whole of North America.

The federal government in the States, Johnson has recently announced a major federal effort in the States to prevent the pollution of the water they have got. It is quite obvious they have not got enough to further the development much longer, but it is also just as obvious that if North America is to continue its development, the water has got to be distributed on a continental basis.

The feeling is that if we do not carry out or initiate schemes of this kind, that the Americans are simply going to have to, and they will take the water through the Great Lakes.

MR. MAGONE: They are doing it now.

DEAN DILLON: Really the International Control Commission has implied this. We simply seem to be unable to agree on the most fundamental issues in this water question, because, as you say, the water belongs to the provinces. This is ridiculous. It does not belong to the provinces at all.

PROF. MEISEL: I am probably going to throw a spanner in the works, because I think we are getting into too much detail. It seems to me there are some broader issues that we ought to discuss before we start tackling specific problems like water.





I think there has been a subtle shift in our emphasis. We started out today rejecting complete revision of the B.N.A. Act, and we have slowly moved away from that, I think, to a position where we are now saying we do not want any change in the B.N.A. Act. I think this has been the implication of some of the things we have been saying, and I think in relation to the work of the constitutional committee (augmented or not) that there ought to be an examination of certain areas where the B.N.A. Act perhaps should be changed. The issues arising from this whole problem of water control or some other economic factors may be one. Section 133 may be another. But there are some areas where there probably has to be an adjustment made, either by changing the B.N.A. Act or by making some other arrangement. We should not simply assume that by virtue of rejecting total constitutional change, we are not prepared to make changes where we think they ought to be made.

DEAN LEDERMAN: Mr. Chairman, I can illustrate a general constitutional point in this problem of water, which is dealt with quite fully at the Resources for Tomorrow conference. There is a paper by Professor Laskin there on ownership of water, for instance.

There is a way of getting national control under the present constitution, and this illustrates



the flexibility of the present constitution -- the declaratory power. You can declare the works, all types -- development of the Saskatchewan River system -- to be works for the general advantage of Canada, and that gives the Federal Parliament legislative control of the development on the Saskatchewan River system -- or make it Manitoba, Saskatchewan and Alberta.

Now, aside from small matters, the only important use of that power has been to get control of the grain trade in federal hands by the declaration that every grain elevator in the western provinces is a work for the general advantage of Canada.

The point I was going to make was that theoretically the declaration can be made without provincial consent, and it lies fully within the federal power theoretically, but it would never be used in a sweeping way because politically you could not do it without provincial consent, I do not think.

PROF. BRADY: It applies to public works.

DEAN LEDERMAN: Yes.

PROF. BRADY: But that would not cover all.

DEAN LEDERMAN: It just applies to work for the general advantage, works declared to be.

MR. MAGONE: Local work and improvements.

DEAN LEDERMAN: No, work for the general



advantage of Canada.

MR. STEVENSON: It came up last year with the Brinco Development. There was a possibility that the transmission line from Churchill Falls to New York State be declared a work for the general advantage of Canada, but Quebec would never buy it. There would have been a real war.

DEAN LEDERMAN: You can declare these works in advance of their execution to be works for the general advantage of Canada. All I am say<sup>-ing</sup>/is that if the provinces through which the transmission runs would consent, there is a way of doing it by a simple declaratory statute in the Federal Parliament.

PROF. McWHINNEY: If they did not consent though, you would agree there is nothing in the very limited judicial decisions on this point suggesting that a blanket federal authority would be conceded.

DEAN LEDERMAN: On the contrary, I think the federal authority is clear enough.

PROF. McWHINNEY: I would be amazed if it was really contested, the Dominion-Provincial thing, that you could predict confidently a Court would line up 9:0 or even 6:3 in favour of blanket federal authority.

MR. MAGONE: For a general declaration, you mean.

PROF. McWHINNEY: Let us say, taking over





the Columbia River as a work of general advantage.

DEAN LEDERMAN: Providing it is tied to specific plans. Anyway, as John Meisel says, we are perhaps getting too particular at this point.

I would like to come back to this list of topics and say that of course I am not contemplating that we say everything that can be said under each of these headings. That would fill a library. The work would have to be highly selective and oriented on the impact on those institutions of our immediate federal problems.

PROF. BRADY: But it should not be designed to fill 500 pages.

DEAN LEDERMAN: No, it should be about 30 or 40 pages.

THE CHAIRMAN: It has to be a document of the character of the Economic and Fiscal sub-committee.

DEAN LEDERMAN: Exactly.

MR. PERRY: On the basis there is probably 500 pages of material lying behind that document.

PROF. CREIGHTON: Exactly.

THE CHAIRMAN: I think we have to avoid, as you mentioned, Bill, the superficiality of the Committee of Sixty Document, which is really disappointing in its depth.

On the other hand, if any member of this Committee were compelled at any point to sit down and marshal his thoughts on these things, what we



one could produce a respectable and helpful document. That, I think, would be the purpose.

PROF. FOX: Would this analysis meet with the approval of the Committee? That in view of the election coming up in Quebec, and assuming that Mr. Lesage wins it comfortably, that the Quebec government will probably concentrate on economic and fiscal matters in the next year because of the need to negotiate the agreements and therefore will probably be pre-occupied with economic matters during that period; and in this interval, while our Economic and Fiscal sub-committee could go on with the work that they are doing and I think it has done so well in the preparation of this document, Bill's suggestion could be adopted and another group of committee members could go on formulating this sort of document that you are proposing to us.

In other words, the two things could be carried on, and it would seem to me to fit the tenor of the times, that it may be, because of the first point that I made about Quebec's preoccupation in the next few months, that we will have a breathing spell in the constitutional field in which there will not be as much change in thinking and assertions in Quebec as there has been perhaps in the last recent period, and therefore there would be time to think through. I am thinking of a three





or four month period, something of that sort, that Bill is proposing.

THE CHAIRMAN: I think that is right, Paul. I was going to say when you first started saying about next year, I would not have gone that far, but possibly the next few months, certainly to mid-fall, when the topic of the negotiations will be strong. I think Quebec has made it abundantly clear this is going to be a number one.

PROF. McWHINNEY: There are though still -- and Mr. Perry's and John Meisel's points run together -- there are still priority problems in what I call the economic natural resources area; and I think increasingly they are likely to be the battleground of Dominion-Provincial relations, transcending of course the simple Quebec-Dominion problems. I think industrial resources is one; I think tax power is another.

Ontario is going to have to take a position, for example, when it intervenes in this advisory opinion, the reference on off-shore oil rights. I do not know what the Attorney-General's Department is doing on this, but I hope he is consulting with the Federal-Provincial Relations people in the government, including the Economics & Development Department, on this issue.

We can do nothing at all, you see. We are not compelled to get into this thing, I suppose.



We can intervene, and on which basis we intervene becomes very important. So studies here would be, I think, very helpful in plotting the policy alternatives available in legal terms.

DEAN LEDERMAN: One thing the larger constitutional sub-committee would have to address itself to, to start with, would be this very problem of priorities, because there is a very big problem of selection here.

THE CHAIRMAN: Harvey Perry made the point earlier that this is related to the whole economic question in terms of avoiding any unnecessary factor of inhibition for economic growth and development.

I am not expert enough here either, to say in what way this question of water relates to it, except I do have a sense that it is of high importance right now -- an area for national statesmanship as far as Ontario is concerned.

DEAN DILLON: I think this question we have been discussing on its own merits, leads to the situation here which perhaps we have forgotten this morning, and that is we have been talking about Ontario and about Quebec and about Quebec's problems and about Ontario's problems within Canada; but if we look at the water situation, this is initially or ultimately it is a continental problem, and the United States has reached a position which is ahead



of ourselves. They are now at the stage where they simply must have more water, and we have got the water and we do not need it.

This brings me to the point here that perhaps Ontario should be looking at all these problems, constitutional, economic and otherwise, not from her own point of view, not from Canada's point of view, but in this continental way, because ultimately this is the way the thing seems to be shaping up.

You mentioned the tendency to unite, upon the European Market. We have a similar situation here which we simply cannot avoid. Perhaps the choice we have to make is whether in 50 years we want to have the Dominion of Canada at all, or whether it is going to be part of a continental federal state.

THE CHAIRMAN: There is also the good hard point that we sell wheat, but there seems to be a reluctance to sell water. Yet one still has the opportunity to sell water before people start pilfering it from you, as they can readily do.

DEAN DILLON: I think one of the factors that has not been realized is that we can sell water, but we can use it two or three times on the way to its ultimate market.

THE CHAIRMAN: Really having your cake and eating it.





MR. SEGUIN: "Used Water".

PROF. McIVOR: In view of the rather large platter which the expanded constitutional sub-committee seems to have before it, would there be any merit in the economic sub-committee doing a bit of continuing work in the one corner of this operation, and taking a look at the Quebec economy and its prospective lines of development, and seeing what we can turn up by way of possible constitutional limitations or restraints on Quebec's economic development?

I would suspect that, for one, we might find that the strength related to the present allocation of tax power and such things as the jurisdiction over natural resources that we are talking about, and that this in a way seems to be a rather specialized little operation.

Can we relieve the Committee a bit by staking out this little area and spending some time on it?

MR. STEVENSON: I think it is not just barriers to Quebec's advancement; it is the whole gamut of economic problems in relation to the constitution.

PROF. McIVOR: Yes, that is right.

PROF. McWHINNEY: Are any of these problems on your desk now, Mr. Chairman? For example, the water problem, or off-shore oil, has that come to Economics & Development in the consultation on



the federal issues?

THE CHAIRMAN: Yes, they are there now, not in the sense that they have come up as immediate fighting issues, but they are there in the sense that we are concerned about them or taking note of them.

PROF. McWHINNEY: It is very true this issue which Dean Dillon raised. It is really a very dramatic issue of the future, the possibilities of association of Ontario and other provinces in continental water, economic associations, distribution and allocation of resources. You are actually working on this?

THE CHAIRMAN: That is very much on the table, yes.

PROF. McWHINNEY: Highly secret at the moment?

THE CHAIRMAN: No, I was just laughing because there is a speech coming up shortly on this question.

PROF. FOX: I think the Economic and Fiscal sub-committee really ought to keep at these problems if it is at all possible. It seems to me they are terribly important and if the members have the time I think we should anticipate there is going to be a demand for their services.

PROF. CREIGHTON: Do you have many special meetings of the Economic and Fiscal committee?

MR. PERRY: On this document I suppose three





or four.

THE CHAIRMAN: We had three or four two-thirds of a day, at least, meetings. Then Harvey has sweated through some drafting.

MR. PERRY: This is essential, that we spend the odd hour when we were getting together at these meetings.

PROF. CREIGHTON: That is what I think too, I think you have got to do it in this way to do it at all, but you have got to get some limitations or some priorities in this comprehensive survey or it is never going to be finished.

THE CHAIRMAN: That is the next point. We are agreed that the constitutional committee should work at this. Do we want to give them any guidance here on areas, or would you prefer to leave it to them, since it is an augmented committee, to define it.

MR. PERRY: It seems to me pretty obvious that the Economic committee are going to be the pressing one for a while, and they should take priority if specific subjects are to be studied.

PROF. CONWAY: Is there not an International Commission on this water question?

THE CHAIRMAN: The International Joint Commission.

PROF. CONWAY: Has that brought any policy out?



DEAN DILLON: It has no jurisdiction over provincial water; it has jurisdiction only over boundary waters.

PROF. CONWAY: Of course.

DEAN DILLON: It is a ridiculous situation.

PROF. CONWAY: I must say I am very struck by what you say, that we ought to decide what to do about this before it is taken from us without our consent. If you establish a legal structure and system whereby you can sell it and allow it to go one way ---

THE CHAIRMAN: The thing is inevitable. It is an obvious place, I would think, for the government of a province like Ontario to stand up and suggest ---

PROF. CONWAY: A real policy, absolutely.

THE CHAIRMAN: In the narrow sense which, if they involve turning over something to the national government, that the water is going to be turned over anyway.

PROF. CONWAY: You see, British Columbia has stated its policy on this. It seems to me Ontario has to suggest a policy on it. It is a very practical thing which has very broad or serious implications.

PROF. MEISEL: There is another aspect of this, of course, that here is a problem that affects Quebec as much as all the other provinces.



PROF. CONWAY: Exactly.

PROF. MEISEL: And one of the areas where agreements can be reached to foster the kind of underlying consensus and understanding.

MR. PERRY: One result of this is we may be persuading these fellows that economists are dealing with fundamental things occasionally.

THE CHAIRMAN: Yes, quite.

PROF. FOX: I think you have got an ideal group to work on this. You have Dean Dillon on the committee; you have got ---

THE CHAIRMAN: The Chairman of the Power Commission?

PROF. FOX: The Chairman of the Power Commission seems to be a natural.

THE CHAIRMAN: To wrestle with this problem. Would you like us to look at water and at the economic areas of constitutional interest?

PROF. FOX: You need a lawyer on that committee. Do you need one of our members? Do you have any lawyers on that sub-committee?

THE CHAIRMAN: No, we do not. I wonder, is Delisle far enough advanced to help us out, since he is around the shops?

DEAN LEDERMAN: Yes, I think he could be quite useful on constitutional issues.

THE CHAIRMAN: He is there, and this would ---

PROF. BRADY: Why not use him?

THE CHAIRMAN: -- prevent us from encroaching further on your time.





DEAN LEDERMAN: I am not too sure how much he could do for you.

THE CHAIRMAN: At least he could show us where we might be getting into trouble.

DEAN LEDERMAN: He could certainly look things up and come back with answers. This is the position we are all in from time to time, and a student who has just graduated is in that position even more, but he does know where to look and he won the Gold Medal when he graduated, so he knows how to research on these materials. A lot of it is in his mind now. I think he could be quite useful.

THE CHAIRMAN: He gave me the impression he knows very much what he is doing. He is very purposeful.

DEAN LEDERMAN: Also he is a graduate chemical engineer. He knows your resources problems too.

THE CHAIRMAN: That would be fine.

MR. PERRY: Is he in your office, on your staff?

THE CHAIRMAN: He is putting in about six or seven months there between having finished the Bar admission course and going on to graduate studies. Bill Lederman kindly referred him to us. He is presently working on the international activities of the province through the Department of



Transport, Attorney General, Highways and so on.

DEAN LEDERMAN: He is researching files for all trans-border arrangements of any kind, so that we can see what that picture is.

PROF. MEISEL: Mr. Chairman, we have made some very useful progress, I think, this morning, in suggesting new areas which we ought to tackle with a fair amount of vigour this summer; but I think it would be dangerous to abandon some things we have already started, in this new zeal for new things.

For instance, our sub-committee has had some conversation with the Minister of Education about problems of education of French-speaking Ontarians. I think it would be very foolish to abandon some of these very important and pressing things for the sake of some of these others.

THE CHAIRMAN: John, I was just about to suggest that if we can tidy up the constitutional discussion we had this morning now, we should perhaps go on to cultural, which we have not touched this weekend really.

DEAN DILLON: I would just like to bring up one other point which is an issue that is a little different one than the water situation. This has to do with education and perhaps the changing nature of education and its importance to technology in Canada.





We like to think of ourselves as being one of the leading nations in the world. I think what I would like to say here has to do with the development of technology. We read in the Economic Council first report that we have to have one and a half million jobs by 1970 and we are also told that in order to achieve this we must look very carefully at education. Being an engineer, I think a part of this at least, a very important part must be then education for technology.

We look around at the nations with which we must compete today -- United States, France, Germany, Sweden, Japan -- all these nations with highly developed technologies, and most of them -- at least I think all of them as a matter of fact -- are unitary states.

PROF. McWHINNEY: West Germany is not.

DEAN DILLON: Right, but most of them are, and they have been able to achieve the position that they enjoy because they have a highly organized scientific policy. Now, we in Canada just haven't got that.

PROF. CREIGHTON: Scientific policy of development of science or research or education?

DEAN DILLON: Research and development. What I am saying here -- and I originally said that the nature of our education is changing in this way --



simply that research and development in all fields is becoming more and more important.

The Federal Government recently, at least in Parliament, announced that they were going to form a Science Council. I do not know whether that is the right name, but at least it will be a Council. It is something that we have needed.

My concern is that, once developed, will it be effective? I do not see how it can be effective unless it is a strong national council.

We have the National Research Council to thank for the strong position of Canada in basic science today. This position was built up with federal funds and in a national way. We now have to take the second step and develop our policy, to apply this science.

I am concerned that in Ontario we seem to be getting less and less assistance on national level and more on provincial level, and I just do not see how we can develop ten strong nations scientifically.

This brings us to the point: are there some aspects of education that should rest with the federal authority?

PROF. FOX: You are suggesting that the Constitutional sub-committee might well consider this, are you?

DEAN DILLON: I think it has a connection.



PROF. BRADY: It is very relevant.

PROF. FOX: I think it is a very good point.

PROF. CONWAY: Very good point.

PROF. MEISEL: Mr. Chairman, I have looked a little bit at this problem in relation to some research I am doing in connection with some medical association. There is an unmistakable trend for the Quebec doctors to pull back from some arrangement that they had, say, with the Royal College of Physicians. It still goes on. I understand there is great emphasis now in Quebec for the subsidy of research and science to be taken over by the provincial government, and that they are going to try to pull out of some of these federal arrangements.

If this is so, and I am pretty sure it is going to happen, I think what we will have to look at is not so much perhaps again the straight delegation of these things to the federal government, but some machinery which would permit the various provinces to arrive at joint agreements.

I think there is no position for national concern, but I think there is certainly a problem in Quebec of again having decisions made by their own group rather than somebody else.

I think that in looking at this, we should not just look at the possibilities for federal action, but rather as well the possibilities of a





number of provinces or all provinces acting together with the federal government, rather than the thing being simply a federal matter.

DEAN DILLON: I think one way to achieve this, of course, is by co-operation by provinces, but this may not be a positive enough thing. I mean, a large province wants to have its own nuclear reactor, if possible, and if they want it they are going to have it.

It seems the more effective way to have one strong nation scientifically is to have the support for the development of this come from one source.

John Chapman, who is the young Canadian who is responsible for Alouette, this very successful satellite, has been in the bushes for the last three years telling us that we need three strong institutes of technology similar to the M.I.T. in this country. He bases this number on the fact that the British had decided that for about seven or eight million people they need one of these centres, and they are developing these in England now. They have at the University of London; Imperial College is one; there is one in Glasgow. They are developing a number of others.

This means three for Canada. Where are they going to be? I suggest they won't even get developed unless there is a strong national policy.



What we will end up with is a pale shadow of one of these things in each province.

PROF. CONWAY: This is, of course, an excellent example of a problem which could not possibly have been anticipated when the British North America Act was drawn up. As you say, our problem of getting the kind of people you need for these three institutions is difficult enough, but to have to have nine provinces competing for them ---

PROF. MEISEL: Mr. Chairman, that is the kind of thing where I think it would be much better if the initiative for some national effort came from the province of Ontario rather than if it came from the Federal Government. On the other hand if Ontario discusses it with Quebec first, ~~that~~ would be much easier to do than if the initiative simply comes out of Ottawa.

DEAN DILLON: The initiative with the Department of University Affairs now, I think there is a very definite trend towards drawing in the province to support research, and under those circumstances how can you blame Quebec doctors for doing the same thing?

PROF. CREIGHTON: I am sorry, I did not catch your point. There is a very definite trend inside the universities ---

DEAN DILLON: In Ontario in the Department





of University Affairs it is becoming, it is essentially running the universities.

PROF. CREIGHTON: There is increased emphasis on provincial control of education.

DEAN DILLON: Right. Up until a year ago the Ontario Research Foundation used to distribute a modest amount of money for research. This is some two or three hundred thousand dollars. This function of the Ontario Research Foundation has been turned over to the Department of University Affairs, who are now making noises as if they were going to greatly expand this system for the support of science, technology and perhaps other fields in Canadian universities.

These are building up very quickly because a professor will get money and take money from wherever it comes, and I say that the National Research Council and these other agencies will tend to become less important.

PROF. CREIGHTON: I do too.

PROF. FOX: I wonder if this couldn't be another area in which you would be developing within the constitution of the new sort of federalism, in which you would have co-ordinated effort and consultations by the provinces with the Federal Government, and the Federal Government might well make sizable sums available and, by agreement with the ten provincial jurisdictions, decide that there



would be three institutions such as you refer to, and by agreement there would be one in the Prairie region, one in Central Canada and might be one in Eastern Canada, and that you would have all of these pulling together through co-ordinated exchange. Is that a possible conception?

THE CHAIRMAN: You know, there is the Health Resources Fund which was established last year -- \$500 million to be spent over the next 15 years, and the final arrangement on that was (this was to provide for assistance in provision of medical facilities) that it was finally agreed that \$400 million would be allocated on a formula basis to the provinces, but that the Federal Government on the advice of the provincial authorities would reserve \$100 million for investment in facilities of national importance or national significance. So there is something of an example there which might be applied here.

DEAN LEDERMAN: The institutional or constitutional issue that comes out of these considerations seems to me to be this. National standards or national enterprises of some kind are needed, national undertakings.

Now, how do you get them? Do you get them by simply giving the responsibility and the power outright to the federal Parliament and Government, or do you get it by inter-provincial agreements, or



do you get it by agreements between a number of provinces with the federal authorities participating in the agreement?

There are a number of different ways of getting national standards. This was one of the things that one would discuss under co-operative federalism -- the weaknesses of arrangements that rest on getting unanimous consent in the first place and keeping it all the way through.

Perhaps it is the only way to do this, perhaps it is the best way to do some things when you look for national standards. On the other hand, if you have got something where national standards are needed, that means it is appropriate for the federal authorities to set up.

THE CHAIRMAN: I was interested in Dr. Forsey's comment in his letter that one could argue universities do not in fact exist for the provinces in which they happen to be located, and therefore do not fall under any exclusive jurisdiction of provincial level.

I take it if we had a Supreme Court like the American Supreme Court, it is quite possible we could convince the judges that control of universities was a matter of peace, order and good government.

PROF. MEISEL: Do you think seriously the government of Quebec would accept it? This is such





a sterile position.

THE CHAIRMAN: Oh, no, you don't about new realms such as this, or proposals.

DEAN DILLON: I cannot answer this on constitutional grounds. In answer to your question, all I can say is that the National Research Council and any other body which dispenses funds for research, has never had a problem with sorting out grants for the Province of Quebec. They have been treated on the same basis as applications from other parts of Canada. So I do not see quite how it cannot work, but there may be some constitutional reasons why.

PROF. MEISEL: No, I gather from a friend of mine who has just been appointed the new head of the Medical Research Council, I gather that he believes this probably won't be forever that grants for Quebec medicine will be generated through the same sort of arrangements as is the case now (they may not find this acceptable) and that some other arrangement may have to be found. I do not think these things necessarily need to affect the substance of the general direction, but I think that it affects the form. I think one of the things we probably ought to do is to think up forms that could be substituted for this present one, so that the substance does not get changed but we may make the way in which it is done more



acceptable.

DEAN DILLON: There is one other point I would like to bring up. You mentioned, Bill, national standards. I am not clear what you mean by national standards. You could mean that it is necessary to have standards for, say, science and research across Canada which are uniform. Is this what you meant?

DEAN LEDERMAN: For instance, the Canada Pension Plan and the Quebec Pension Plan: the meshing of those two plans and their acceptance of common standards rests on agreement between Quebec and the Federal Government. This is not an imposed uniformity as it would be if the pension power were exclusively federal.

In the realm of education, the question of common standards is a matter of adequate finances for everyone.

DEAN DILLON: I think I understand now what you mean, and I would make this statement then as far as the science policy is concerned, that to a degree one must be concerned with an acceptable standard, but if we are to have a successful policy then the watchword must be excellence, and this is a very difficult thing to achieve when people are working, say, on a provincially-divided basis; but there must be some authority which is accepted and from which will come the decision that





that is the institution or that is the man which we must support. This is of prime importance, and this is one of the points that could be crossed. It simply is not enough to raise the general level of expenditure on scholarship. You have got to support scholars, I should say.

DEAN LEDERMAN: The question of the precise locus of power or responsibility, I suppose, is basically a question of who has the last word on the decision-making when there have to be decisions and hard choices of priorities and so on.

DEAN DILLON: I think the way it has been achieved in the past is that, say, a national science council is created, and these people would decide where support goes, to a man or an institution.

DEAN LEDERMAN: Mind you, to some extent constitutionally this is just a question of the federal Crown Company that spends its own money the way it chooses and being able to say: "if you want a grant from us, you meet such and such a condition".

PROF. McWHINNEY: Your private associations in the United States in a way fulfill that function there. A big body like Ford anyway does establish minimum standards and national standards. You have a Universities Commission. I was comparing the American experience. You do have a federal body there in the area of educatorial federal constitutional



power by simply using the federal committee's money and its powers of suggestion, and I suspect this would be the Canadian solution. You have, after all, got the federal money, you have got the power to give it to people, and you would like in co-operative federalism to weigh all devices.

PROF. CREIGHTON: That is Dean Dillon's point, that the Federal Government has the money and can do what it likes with the money. My point is this, that the very person who has been advocating these institutions of research and technology has not in fact been able to get what he wants.

DEAN DILLON: That is right.

PROF. CREIGHTON: Has been held up by the fact that these people do not want to invade this particular ---

DEAN DILLON: What I am saying, there is no authority. It is the same as the water situation. Nobody is willing to make the first move because we own our water and they own theirs.

DEAN LEDERMAN: I am not saying spending money will take the Federal Government all the way by any means. There is even a suggestion in the only Privy Council case that mentions it, there is a suggestion that the unconditional grants are all right and conditional grants are all right provided the conditions are not too stringent, but



if you reach the point that stringent conditions were involved, where really what the Federal Government is doing is buying its way into the provincial field of power and responsibility, if the conditions get too detailed then there is a suggestion in this case that that would be obnoxious, so you cannot go all the way with the money.

THE CHAIRMAN: What would happen if the Government of Canada decided to build, finance and support exclusively a Canadian institute of technology in relation to the M.I.T. in this way?

PROF. McWHINNEY: We would invoke defence powers among others. I am quite sure the Dominion can set up its own institute, and there will be enough authority to get away with it constitutionally.

MR. MAGONE: They could do it in the Northwest Territories.

PROF. McWHINNEY: That's a helpful suggestion.

DEAN LEDERMAN: They have just done that with the Royal Military College.

MR. SEGUIN: There are two Royal Military Colleges.

PROF. McWHINNEY: They would have two big institutions for the Defence Department and Institute of Technology in the situation you suggested





in the National Capital, and perhaps it will set up this way.

THE CHAIRMAN: Have a National Capital District as well?

PROF. McWHINNEY: Well, this ~~has~~ actually been discussed a bit in connection with Article 16 of the constitution. There has been a little bit of discussion on how much you could do combining National Capital territory powers and defence and other powers. I think you could do, don't you, Bill?

DEAN LEDERMAN: Yes, I think you could do it. What the political consequences would be is another question, but the Federal authorities could go ahead and finance such an institution, and I think they could give it degree-granting powers too.

PROF. McWHINNEY: They could?

DEAN LEDERMAN: Yes.

PROF. McWHINNEY: R.M.C. does it. There is nothing sacrosanct in degree-granting power.

THE CHAIRMAN: You say you are going to give degrees.

DEAN LEDERMAN: It can be done under the Royal prerogative, I think.

PROF. McWHINNEY: Eugene would defend that, Royal prerogative.

DEAN LEDERMAN: When the Royal Military



College wanted to give degrees, they went to Mr. Frost and took out an Ontario statute, but in my view they need not have done this. They could have had a federal statute. As a matter of fact, Queen's gives degrees under a Royal Charter of 1841 but continued and modified by Federal statute.

PROF. FOX: What do you do in Quebec with the College Militaire?

PROF. CREIGHTON: Same as British Columbia, I understand.

DEAN DILLON: They do not graduate from them.

PROF. FOX: R.M.C. is the only degree.

DEAN LEDERMAN: They go on to R.M.C. for degrees?

PROF. BRADY: Has there been any move to establish a National Council of <sup>Technology</sup> / as a counterpart of the National Research?

DEAN DILLON: This is coming, I think. It has not been too well received by the National Research Council.

PROF. BRADY: Because it tries to cover both technology ---

DEAN DILLON: And science. N.R.C. does essentially cover both. The Act under which the Council was formed was really more to develop the resources of the country and had less to do





with pure science than anything else.

PROF. CREIGHTON: It has become concentrated in pure science.

DEAN DILLON: But it developed as an organization which ran its laboratories. It really had nothing to do with development of national resources.

PROF. BRADY: There is no Federal Council or Institute dealing with technology really on that basis, to assist the development of resources.

DEAN DILLON: Indeed there is not. My point was that there should be one, and it should be a federal conception rather than having the provinces develop independently.

DEAN LEDERMAN: Regardless of the fact that it would be politically unacceptable to Quebec at the present time, I think there is quite a bit to the argument that Dr. Forsey is putting. The grant of power over education to the provinces, the words of limitation are "in and for each province", and the scheme of the Act is that except for specific provincial powers all other powers are federal.

Now, when you are doing something educational that is of a national scale and not just "in and for each province", there is your argument.

DEAN DILLON: Even if this provision maybe were accepted by a number of provinces, there might



be in the last analysis no hope of having it accepted in Quebec but if we don't start it now ---

DEAN LEDERMAN: Frank Scott has made that argument in connection with McGill's early difficulties and Larry MacKenzie when he was President of the U.B.C. and very active in the Conference of Canadian Universities and Colleges, he made the argument in a leading article in Saturday Night, this very argument, that there is a national dimension to higher education at least, and some higher educational institutions which would attract some federal responsibility and power to engage in the promotion of higher education.

PROF. BRADY: Admittedly it does not seem a very appropriate time to take this initiative, although the need is evident.

PROF. CREIGHTON: I would remind you that this does not take a very high view of the Fathers of Confederation, that they actually thought of excepting higher education from provincial powers and said so in the brief report that was made public on the declaration from Charlottetown. This does not seem to be a very important contribution to this discussion, but there it is.

THE CHAIRMAN: More importantly, why didn't they?

MR. MAGONE: It cannot cause much of a stir



57 if they expanded the three military and naval colleges to include what you have in mind. There is the R.M.C. and the one in Esquimalt and the one in Quebec.

PROF. McWHINNEY: The only real conflict is, for example, if there were a Dominion College of Technology, it is conceivable some provinces might refuse to recognize its degrees, but short of that situation you would have the national interest and challenge.

DEAN LEDERMAN: There might be a package here of federal responsibilities in the field of education, some reasons perhaps, and perhaps quite sensible ones for the federal authorities to take responsibility for financing and managing, providing education for significant French language groups outside of the Province of Quebec, so as to relieve the provinces of that particular recognition of the French fact being a burden to provincial finances and being something the provincial taxpayer could complain about if they were inclined to.

PROF. BRADY: I think there is very considerable danger there. I think the responsibility of the province for French schools might be weakened.

DEAN LEDERMAN: Yes, I am speaking speculatively here and I am not trying to define a possible position now, but just speculating on the





possibilities. On the whole I think you are right. The field of higher education is the natural field for the Federal Government. It ties in with what the Economic sub-committee has said about the Federal Government's responsibility for growth.

PROF. FOX: On Dean Dillon's point, which I think is extremely important, would it not still be better to have a co-ordinated Federal-Provincial thrust in this whole position? If it could be obtained, assuming it could, would it not be better? Because you might, for example, not want to build another national institution or centre from Ottawa, but prefer to make one of your regional technology institutes, such as you are suggesting perhaps located in the nucleus that you have already in London, or wherever it is, and by consent your strength would be poured into this through the regional centres.

I see your point about the need for Federal intervention in this field by way of funds and so on, but I do not see that it necessarily follows that it has to be a purely federal function. It seems to me (my analogy may be incorrect) that it may be analogous to some of the other things we have been talking about in the changing concept of federalism. In other words, by consent and co-operation we may attain the



same goal by making use of what we already have.

MR. STEVENSON: Mr. Chairman, I started discussing this a couple of days ago. There are a great many areas affecting higher education right in the middle of the Federal-Provincial scheme of discussions right now, one of them being a question like scholarships, another one being research grants, they being capital and operating grants. They can become areas of real friction if you do have both levels of government operating independently, which is the case in certain fields right now, particularly when you are getting into a number of things like the research work of universities and there is quite a problem of establishing priorities and talking of university budgets and the rest of it. These priorities can be quite upset or interfered with through systems of direct grants or lack of consultation.

Certainly I would think there are several examples and there is an excellent case for national policies on areas affecting higher education which are put into effect through Federal-Provincial mechanism, and perhaps some of the channelling operations through established provincial mechanism set up for it.

PROF. FOX: Would the developments in the grant by the Federal Government for medical progress be a suitable pattern for you to consider for the





development of technology?

DEAN DILLON: I think this \$500 million that you were talking about is largely capital; it is the creation of medical centres.

PROF. FOX: But still these medical centres will be provincially controlled, will they not, they will be part of the established universities? That is my point.

THE CHAIRMAN: Yes, the Federal Government gives the money, and in a way it sets a national purpose, but to provincial institutions.

PROF. FOX: Is there something looming about science that would require a different treatment or could this particular illustration or example be used as a basis for the consideration of scientific progress?

DEAN DILLON: I do not think there is anything particularly unusual about it, except this point, that the most important work is done by, ~~say~~, one per cent or half of one per cent of the people under the present system where there is no sort of concerted national effort, while I think it is quite fair to say that the half per cent that we produce is going to the States.

PROF. CREIGHTON: This is one of the troubles, though. They are migrating because they haven't got opportunities here and they won't get the opportunities until this thing is done nationally.



PROF. FOX: This is true of medical science too.

PROF. CREIGHTON: I agree it is; it is the same thing.

MR. PERRY: My own solution is this, to build two or three laboratories in the States where we can re-hire and repatriate Canadians and a lot of Americans.

PROF. FOX: Do the research there?

MR. PERRY: Do the research there and ship it back to Canada. Why not go to the market? If the Federal Government spent \$100 million on a couple of laboratories down there ---

DEAN DILLON: Perhaps you might consider the proposition that if you are talking about excellence, then co-operative federalism is just not -- the two are not compatible; because you are not going to get people to agree in this kind of way. They have got to be told, in the last analysis, that you are going to have excellence.

MR. PERRY: The Deputy Minister of Finance as long as ten years ago, I am sure, had some such idea in his own mind. He had been groping for some means, through the present universities, of establishing strong research in Canada for a long time, and there are little bits of it beginning to appear. I know one economic research association which is probably going to pop up at a university



shortly. So that the ideas are there, and at a certain level would be quite acceptable, but the barrier seems to be up top.

THE CHAIRMAN: How about using the facilities of Expo?

PROF. MEISEL: It has been suggested.

THE CHAIRMAN: It is nearly lunch time, and as far as the expanded constitutional committee assignment is concerned, while I do not wish to be arbitrary about it, it seems to me, from all that has been said, that perhaps the committee is in a position to launch into its work and to sort out some of the priorities, don't you think?

DEAN LEDERMAN: I think so, Mr. Chairman. I do think we shall have to have a special meeting here possibly within the next two weeks. I don't know how that suits. If we are going to do it, while we have got people here we ought to talk about what time would be acceptable to the committee.

THE CHAIRMAN: Also there is this question that we have just been discussing which certainly should be treated there. Whether it should be treated by the Economic committee or the Constitutional committee is debatable, or both.

PROF. FOX: Why could not the Economic sub-committee which has Dean Dillon on it, make the first assay of this particular ---

THE CHAIRMAN: Try to produce a position paper.





PROF. FOX: Yes, refine the ideas we have been discussing this morning. It may be a smaller group could plan something out and come back to the full Committee maybe and tell us what you have done, what is suitable.

THE CHAIRMAN: I think that is a good idea. The question you raised, Bill, is also related to our general future timetable for the full Committee. It may be that at this juncture our time would be better served, because there is a lot of work in progress, depending on how we get on this afternoon, might be better served by sub-committee meetings next month rather than a plenary. I do not know.

We are back into our old problem about the third Friday of May. Is that the beginning of the long weekend?

DEAN DILLON: Monday is the 23rd.

PROF. CREIGHTON: What do you propose to do this afternoon, Mr. Chairman?

THE CHAIRMAN: I thought we should sort out some of our cultural problems that arise from Professor Brady's paper and elsewhere, and also arrive at some agreement if we can on the disposition of the Economic and Fiscal sub-committee paper, whether that is to go back with instructions for reconsideration of some points of it, whether it is ready to go forward to the Government. Those



seem to be the two items we should go on to.

PROF. CREIGHTON: It does not seem to me that the cultural part of it in Professor Brady's paper is sufficiently developed to warrant any very detailed discussion today.

THE CHAIRMAN: We perhaps want to give Professor Fox at least some more guidance on his inquiries.

PROF. FOX: I think there are further general interesting ideas in Professor Brady's paper that I would like to hear members of the Committee discuss. It seems to me he has made a number of significant points, and if people disagree with him, I think we should hear them. I do not think we want to resolve things, but I would welcome a general discussion such as we had yesterday on the Economic and Fiscal sub-committee.

PROF. McWHINNEY: Can I ask you what we decided on the meeting next month?

THE CHAIRMAN: We did not. For purposes of either sub-committees or full Committee, in view of the long weekend, is the 20th unsatisfactory to anyone or any great majority? Personally it makes no difference to me.

PROF. CREIGHTON: Is that Friday?

THE CHAIRMAN: Yes. I am quite happy with it.



PROF. FOX: Some of us work all the time anyway.

THE CHAIRMAN: One day is like another.

DEAN DILLON: It is Sunday today.

PROF. FOX: Does not matter to me.

THE CHAIRMAN: Is it agreed we carry on with our regular Friday date, the 20th?

MR. MAGONE: O.K. with me.

THE CHAIRMAN: Perhaps before we adjourn today and as a result of this afternoon's discussion we might give some thought to how we wish to use that day, whether it can be better used for a meeting of sub-committees.

PROF. McWHINNEY: Are you thinking of a meeting in June too, on the regular day?

THE CHAIRMAN: I will not be with you on the regular day in June, because we will be in Victoria, I expect. I think we will see how our work progresses in May.

PROF. FOX: The only point is that I suspect some people would welcome having a date established now.

PROF. McWHINNEY: It would be helpful.

THE CHAIRMAN: Would there be any objection to the 24th June, the following Friday?

PROF. MEISEL: Suits me better.

THE CHAIRMAN: 24th June then.

DEAN LEDERMAN: Friday 20th May and Friday





24th June.

PROF. CREIGHTON: St. Jean Baptiste Day.

THE CHAIRMAN: Incidentally, I also said on Friday to the Minister of Education, was he really serious about his day at the Delawanna Inn? He said, "Absolutely" so we will keep that in mind though with him to find the day is going to be difficult.

Then we have to consider when and how we might want to meet again with the Cabinet Committee. That is another question.

Perhaps over lunch people might talk informally about how we should handle the Cabinet Committee, so to speak, and at what point we are really in a position to talk to them usefully.

DEAN LEDERMAN: Would you remind me just who the members of the Cabinet Committee are?

THE CHAIRMAN: The Prime Minister, Attorney General, Minister of Education and Minister of Transport.

MR. STEVENSON: We have been sending members of the Cabinet Committee a certain amount of the ordinary information material that has been given. We hope they will be fairly well informed.

THE CHAIRMAN: Mr. Wishart is taking great interest in it. I don't know how he has the time but he wrote for some of the material.

MR. STEVENSON: We sent him a list of a



hundred documents and he wrote back and asked for quite a number of them.

DEAN LEDERMAN: He was very interested in having Mr. Claude Morin invited.

THE CHAIRMAN: That is another thing I have in mind. Maybe St. Jean Baptiste Day.

PROF. CREIGHTON: Very suitable indeed.

PROF. FOX: I am dubious, however (we discussed this) whether Mr. Morin would want to meet.

THE CHAIRMAN: Not with the Cabinet Committee.

PROF. FOX: Would he want to meet if the Minister was there? Would you go to Quebec if one of the Quebec Ministers was there?

THE CHAIRMAN: I think it would be pretty sticky.

PROF. MEISEL: I think Morin might.

DEAN LEDERMAN: I don't know whether it is a good or bad idea. All I know is that Mr. Wishart thinks it is a good idea and was quite forceful about thinking it was.

PROF. FOX: Maybe that should be the meeting at the Delawanna Inn.

DEAN LEDERMAN: That would be the right way to do it.

THE CHAIRMAN: Let us lunch then. The French Room today.

--- The meeting adjourned at 1.00 p.m. and resumed at 2.15 p.m.



THE CHAIRMAN: Let us reconvene. I know one or two wish to depart early. Mr. McIvor has gone upstairs to lay down, he is feeling a bit under the weather.

I think you were suggesting, Paul, that there are some other issues that we should address ourselves to in Professor Brady's paper.

PROF. FOX: There is one other minor thing. I don't know whether you want to consider this at this point. Bill Lederman made reference to the Committee of Sixty and his objections to the document. I do not want to delay the discussion of Dr. Brady's paper, but just as a matter of interest, at some point, if we have time, I would be interested in hearing what Bill thought of the Committee. I gather you objected to the Civil Liberties clause in particular, or was it the Supreme Court statement?

DEAN LEDERMAN: I can tell you quite shortly. My main objection to it is -- do you want to take five minutes?

PROF. FOX: It is up to the Chairman.

DEAN LEDERMAN: It is a question of priorities here.

THE CHAIRMAN: I wonder if, in fairness to Professor Brady, we should not carry on with his work now and come to this later. We have given a rather thorough airing in the last day and a half





to the first part in terms of Economic and Fiscal, and this morning Constitutional. There are any number of points that arise.

PROF. MEISEL: I would think that the most useful discussion would be on the suggestions of policy which begin on page 28. I would think that the Committee would benefit from various members expressing reactions to the various suggestions that are made here.

THE CHAIRMAN: Carry on, John.

PROF. MEISEL: That is really all I wanted to say at this point. I think there are some implications that flow from some of these suggestions, and I am concerned (as I think most members of the Cultural committee are) I am concerned with the position of French language and particularly the position of the French-speaking Ontarians in relation to the schools.

PROF. CREIGHTON: I do not see how we can come to any conclusions about this until we have a good deal more information. In particular, I gather that you have been having some discussions with the Minister of Education, and we have not had those communicated to us at all.

PROF. FOX: Excuse me, Donald. We have not had any conversations with him that you are not aware of. When Ian was talking earlier, I think he was referring to the meeting of the Minister with



our sub-committee on the last occasion. Didn't he report after?

PROF. CREIGHTON: We had a brief general session after.

THE CHAIRMAN: But not in real detail.

PROF. FOX: I think it was in the transcript, what Mr. Davis said when he came back to the plenary session, which was pretty well the gist of what he said.

PROF. CREIGHTON: He said that he had been doing most of the talking but what he had been speaking about we don't know.

PROF. FOX: The major point he made was that the concern of the Department was with educating Ontario children to live and earn their livelihood in Ontario; therefore the problem of proper education in French was the problem of (putting it negatively) not handicapping French Canadian children.

PROF. CREIGHTON: That is exactly the thing I want to place emphasis on, because I think if it is pursued too far (and this is the weakness of Professor Brady's excursion into the secondary schools) it may handicap people or it may enable them to be effective and to fulfil their talents and their abilities only in comparatively restricted regions of this province.

In other words, bilingualism is an asset only



within restricted limits; it is not an asset in the province as a whole. It is not an asset particularly in the south central region of the province, its administration, its industry, its commerce.

59           To the extent to which people are brought up in these secondary schools and taught with French, with French as the language of instructions, it seems to me it might impair them from obtaining an idiomatic and fluent command of a language which is certain to be the language of the enormous majority of this province.

          I think this is interesting for example. I have just been looking up the figures as released say, in the Bi-Bi Commission report. I think it is 6.82 French by mother tongue in this province, and the plus 93 for those whose mother tongue is English or whose mother tongue is likely or almost certainly to be English within the next generation. In other words, these are the immigrants. The numbers of French origin, at the origin, are well over 200,000 more than the total for French by mother tongue.

          In other words, if I am correct, approximately 33 per cent of those of French ethnic origin have in fact changed French for English as mother tongue. In other words, that is one out of every three of French ethnic origin have changed, and they have





done so, I imagine, for the obvious reason that they find that this is to their advantage. Where it is not to their advantage is in these relatively small areas where it may be an asset, but it is not an asset elsewhere.

It becomes a question as to whether in the interests of these people in the full exercise of their talents and their abilities, they ought to be encouraged to go on to have an education which in fact may put them at a disadvantage in the province as a whole.

Professor Brady has paid an enormous amount of attention in his paper to Quebec and what is happening in that province, but we are concerned with Ontario. Ontario spokesmen have been a great deal less vocal and a great deal less assertive in recent years, recent months. That does not say that Ontario has not a very well formed and defined character. I think it is less vocal and less assertive for several reasons. I think it is in fact, and as these figures clearly indicate, much more homogeneous ethnically, and therefore it escapes the tensions which I think are peculiar to Quebec. It has, I think, basically more confidence as the result of that and I think also it has much more happily adjusted, related to North America as a whole.

One must never forget that there are



approximately 200 million people on this continent who are speaking English and that English is going to be certainly the medium of communication for all time to come.

Ontario is in the heart of the Great Lakes system industrial, financial, commercial complex of the continent. It is essential that it maintain this method of communication.

To the extent that these people are handicapped in moving freely about the province and fulfilling their best talents and their best abilities, then I think the province should look very, very carefully at the project of extending this instruction in the French language into the secondary schools.

Primary schools are close to the home, and one can understand and appreciate that fact, that at this stage, teaching the French language, and above all instruction which seems to me to be the crucial thing in the French language, is necessary; but when you move into secondary education, you are closer to the community, and I think you must begin your adjustments to a community which is overwhelming English.

Therefore I think it is not in the interests of these people, and I think it is doubtful whether the province itself, which presumably wants to make the best use of its human resources, should embark upon a programme which may likely limit the



usefulness of some of its citizens.

PROF. FOX: I would disagree with one point in your analysis. I would accept the figures, but you could draw from them the conclusion that the people had changed their language not because they wanted to but because they were assimilated because there were not secondary schools available for them.

PROF. CREIGHTON: But for the future, you see, the prospect of their having opportunities outside of this comparatively restricted area is, I think, very small indeed. In other words, it is the compulsion of the general environment.

PROF. MEISEL: I would like to question another assumption, and that is that the high schools which teach some or the majority of subjects in French, so neglect English that the children who graduate from them are necessarily suffering in their English.

PROF. CREIGHTON: I do not think it is an assumption. I think what we ought to do -- and I do not think this is done in Professor Brady's paper -- is to get much more information respecting the present position of those schools. I suspect this has not been done at all recently. The Hope Commission did it, but that is fifteen years ago now. It ought to be possible to get some information about how successful these people are in





training their pupils for life in all parts of the province. If they are content to live in one part of the province, that is another matter, I suppose, but to what extent are we prepared or ought we to be prepared to go on training a minority for those relatively restricted opportunities?

PROF. FOX: I think you are assuming that the schools would produce unilingual people.

PROF. CREIGHTON: I wonder how much they have done? What I am trying to suggest that the prolongation into the secondary schools and, above all, the prolongation of teaching in the French language, may make it difficult for the pupils or the products of those schools to have acquired an idiomatic, fluent and fairly unaccented English; and I think it is essential for the future of people in this province, and I think any other assumption is invalid for the future of this province. The predominant emphasis on English, I think, is just going to grow.

As Dean Dillon says, if we turned our backs on the United States and refused their capital and refused their techniques and declined their standards and all the rest of it, we might have been able to live this kind of isolated Canadian life, but we have not, and the time has gone by when we can do this.

We are in this enormous North American



continent, which is certainly dominated by the English language. Our people, I think, if they find these opportunities not there, will simply go where they are not troubled with these problems: they will go to the United States, as Dean Dillon suggests. However, I have said enough.

PROF. BRADY: I think there are two points to note. First, it would be very undesirable certainly to extend the teaching of French in secondary schools and the use of it in secondary schools by the province, by provincial funds, if that action was going to handicap the children in question in the province; but surely the understanding is that these children are also taught English and it is a bilingual type of education. As far as I understand the French Canadians in Ontario, that is what they want. I have never seen any statement by any of them arguing that they want to be a unilingual people in the heart of Ontario.

They realize, surely, that they would be handicapped if they did not have a grasp of English. They could get along very well on a farm no doubt in Eastern Ontario without English, but they certainly could not get along elsewhere in the province. They would be a most naive people indeed if they were working on the assumption, when they made requests for extension of the use of



French in secondary schools, that they were going to be handicapped in doing so.

I think their desire is to hold on to their own language along with English (this is, after all the basic attribute of their distinctness as a group) but to hold on to their language with English; and to do so they certainly require its recognition in the secondary schools. That, as I have always understood it, is the substance of their request.

Now, there is another point of some importance. The Federal Government is committing itself, as the statement by the Prime Minister of Canada indicated just a week or two ago, that there will be a real effort made to give a recognition to the bilingual principle in the federal service of Canada to an extent that it was not given in the past.

The Chairman of the Civil Service Commission gave an interesting address on February 1st, which I have here and perhaps some of you have also seen, in which he described the efforts being made to give reality to the bilingual idea. He recognizes, as Mr. Pearson recognizes, that this development of bilingualism in the Civil Service is not something that can be accomplished overnight. It is a long term programme. The





adjustment of people to it, the adjustment of the services to it and so on, is something that requires great care and planning and effort, but the Government is committing itself to that.

I would assume that in view of this citation made by the Government, that even if another party came into power tomorrow, it would not discard this effort. It is pretty important therefore, that in the provincial field, and especially in the case of a province like Ontario, that greater recognition should be given generally indeed to the teaching of French in school and particularly where you have French already taught, to develop and make real bilingual instruction.

Nobody in his senses could assert, I think, that this is a simple thing. It is an extremely difficult thing, as all the experiments elsewhere have demonstrated. However, the Dominion Government is committing itself to this principle of bilingualism in the Civil Service, and it seems to me the very minimum that a province like Ontario can do to assist this national effort, is to give more recognition to the French language in schools.

That applies not simply to what we called the French schools; I think it will apply also to the other schools, the schools which are attended by English speaking people. If that is not done, then it seems to me the effort or



experiment that Ottawa is venturing on is going to be very greatly handicapped and made more difficult.

Now, it seems to me that this is a reality of our national situation that we have to face up to. It does present difficult problems without question, but these are the kind of problems that in the cultural field at any rate of our nation and our federation, we have got to tackle.

PROF. FOX: I disagreed with Professor Brady on one point in his paper, if you want to look at page 33, line 5. It seems to me relevant to the point we are just discussing now. The sentence commencing on line 4 of page 33:

"An effort to achieve a competent  
"bilingualism doubtless means a  
"neglect of other subjects on  
"the curriculum, but this sacrifice,  
"if sacrifice it is, Franco-Ontarians  
"have been ready to make and should  
"be permitted to make."

I really questioned whether a competent bilingualism doubtless means neglect of other subjects. I am not sure of my position, but I think it is relevant to this point, to discuss it just for a minute.

I would say that you could have a competent bilingualism which did not involve neglect if the



group that wanted to be bilingual was prepared to make some additional effort. In other words, the difficulty of learning two languages is obviously ~~greater~~ than learning one, but if a minority in the situation in which the French-Canadians are in Canada wanted to accept~~ed~~ this responsibility, I would think the majority ought to be willing to allow them to do it, for the reasons Dr. Brady has brought forward, as well as common justice. So I question this word "doubtless".

DEAN LEDERMAN: There is quite a remarkable example of teaching a competent bilingualism in the Royal Military College. A ~~great~~ effort has been made there. The Bi-Bi people have just been down checking on this, and they will find quite a remarkable story. The officers being turned out there, nearly all of them are competently bilingual. Some of the classes for student officers whose mother tongue is English are being given in French. They will take a history course with the language of instruction being French, for instance. This is a stage they reach by their final year.

PROF. McWHINNEY: It is not terribly difficult to learn languages. When I was in New Haven they started teaching when they went to kindergarten a second language. They chose Italian because Italian was the language of perhaps most people whose origin was not English speaking, but that





has been in operation about ten years.

Indian students, after all, in India learn English up from the age of four.

What I am implying, I think multi-lingualism is the condition of education even for English people. You are getting this new emphasis in the States because the United States has to trade in competition with Germans and others. Already if you are in Latin America you trade less easily if the West German person you are trading against speaks Spanish. So you do not trade at all if you do not speak Spanish, when your competitors speak it fluently.

I think in some ways the emphasis on language as a substantive subject will probably be less and less in importance. I suspect we probably are going to be multilingual here from now on.

PROF. CONWAY: I know of not a top notch private school but a private high school in Germany that offers two years of Chinese and three years of Russian at high school. It, of course, is not relevant to our immediate discussion, but what you say, that the future generally is one of multilingualism, has at least some bearing on the problem we were discussing.

DEAN DILLON: I have an interesting experience that might be pertinent here. In Thailand three or four years ago, speaking to the



educators in Thailand about the problem of English, I learned of the situation there where the Thai children begin to learn English at the age of five.

PROF. McWHINNEY: When do they begin French, at four?

DEAN DILLON: It is English and Thai now.

PROF. McWHINNEY: French has gone.

PROF. CREIGHTON: This is the point: English is a world language.

DEAN DILLON: I assume they have about the same competence in English when they reach university as I had with French when I reached university. I could not talk to very many students and get answers. They did not understand me by then.

The result has been another opinion that a student has been slowed down by about 25 per cent. In other words it takes four years to cover three years work because of the poor facility with English.

The situation here, we must realize that all the text books were in English and many teaching aids were in English but the student still carried out his reasoning processes in Thai.

The Americans were doing some research out there and with very encouraging results. They found that if they took first year students and gave them six hours of concentrated intensive training using



modern language equipment, new lab equipment, that by the end of the first year the student no longer was inhibited, and in this way he could then keep up. This may be quite significant.

PROF. McWHINNEY: The Ghanians and African students in Moscow, the great bulk of them from several nations coming to Russia do not speak any Russian when they arrive, but they give them six months of Russian and then they can take their lectures in Russian. There is no question of fluency using this intensive method.

I was speaking less of the crash programme than the sort of thing even prior to what John Conway is talking about. A five year old Thai presumably who began learning English, has no problem as a university student, the one who began at five.

DEAN DILLON: The point is they do, because they learn it in a superficial way.

PROF. McWHINNEY: How long has it been in operation? They would require about twelve years operation.

DEAN DILLON: That is right. This has been going on long enough to know. My point was that with this concentrated effort they can overcome this deficiency.





THE CHAIRMAN: Two observations I would make. One is that the general proposition that has been put forward, quite apart from the present political problems of language capacity, is one worth bearing in mind. At one point some years ago I had occasion to look at some of the reasons why many Canadian corporations were not very vigorous about exporting practices, and this clearly seemed to be one of the greatest impediments. One of the discoveries was that many companies in Canada were disinclined even to try to sell in the Province of Quebec because language problems imposed a number of different administrative and practical problems. So that I think one can treat this problem in some respects quite apart from the Canadian context.

The second point. May I get some clarification on the difference between instruction in another language and the language of instruction? When we talk here, for example at the top of page 33 that French schools, whether primary or secondary, must be essentially bilingual, I presume that means schools in areas of high concentration of French mother tongue. Are you talking about the language of instruction being French, or are you talking about an attempt in that group to develop an equal facility or approximate facility in both languages? Because on this, it seems to me, turns this practical question of how they are



expected to live and work in the wider community.

PROF. McWHINNEY: Donald's point was a very valid one, but it may well be that schools with this sort of opting-out principle they have of choosing French or English as the prime language -- the French school in Ontario may increasingly wish to give, for example, its scientific instruction in English. In other words, it may become more important to have the privilege of choosing, or for the school board to have the privilege of choosing which languages it uses for what subjects. It may well be that commercial or other considerations may well dictate quite a lot of things be in English.

I think all of us who have taught in international faculties are aware of the facility with which you can switch languages. Some of these European community schools, for example, are quite exciting, because you get three languages used that this one group understands. You get seminars in English, French and German. There is a good deal of sense to that.

MR. SEGUIN: Science and maths are in English at the present time in the bilingual schools.

PROF. McWHINNEY: Nobody but an ultra-ultra-nationalist would particularly object to that.

MR. SEGUIN: We are not asking for it, because we have knowledge of the fact that anybody going into science or maths will probably eventually become an employee of an English company.





The same thing applies in fact for manuals even at university level to-day. Most of the scientific books are American books at Laval or Montreal or Sherbrooke. The teaching might be in French at Laval or Montreal, although they have English manuals, but the teaching in Ontario in most of our schools is in French in maths and in English when it comes to science.

PROF. McWHINNEY: Would you feel then that the crucial option here is the option for the school board in a predominantly French-speaking area to use French in whatever courses it deems fit and proper, but in practice you might find it increasingly the trend that in many areas they might wish to use English or even, say, Russian perhaps?

MR. SEGUIN: Actually there is no option. You see, the program is fixed by the Department of Education under Curriculum 46, which we call the French-speaking bilingual schools curriculum, and there is no option. There are not French books, French manuals when it comes to science and maths, and therefore we have to follow that program.

That applies at the present time to our private secondary schools. We have French manuals in everything but those two subjects - plus English, of course.

MR. MAGONE: I do not think we should forget for a moment that we are not talking only





about French secondary schools: you are talking also about Roman Catholic secondary schools. That means you will have an English Roman Catholic secondary school in an area and a French Roman Catholic secondary school in that area, and a public secondary school in that area.

Now, just one of the things that has been worrying the education authorities and the Prime Ministers in this province for years, is the applications that are made from time to time to have Roman Catholic separate schools paid for by the province, and that is a very practical consideration. You cannot, in my view, set up French secondary schools and not set up the Roman Catholic English secondary schools. How can you do it? Are not the so-called English Roman Catholics entitled to the same treatment as French students?

PROF. CREIGHTON: They are both divisions of the separate school system, of course, are they not?

MR. MAGONE: Why, yes certainly, of course, but they have to be separate schools. This is a very real and practical consideration.

PROF. CONWAY: Are not the English-speaking Roman Catholic schools provided for out of provincial funds?

MR. SEGUIN: No.

MR. MAGONE: No.

MR. SEGUIN: We do pay our collegiate board tax or high school tax.

MR. MAGONE: They go to these schools



if they want to.

MR. SEGUIN: No, we pay tax whether we want to, that is for sure.

MR. MAGONE: Yes.

MR. SEGUIN: We pay the collegiate board tax, but we do not get any services out of it. If we did in some way, maybe we could keep our private schools, if we do not have to pay that high school tax. But just now we are not asking for confessional schools actually; we are asking, I would say, for schools in order to come to an understanding that Quebec will realize that something is done towards the minorities of Canada.

When I am told that because of my six per cent or eight per cent or five per cent, that I should not have my schools, well, if I were Mr. Lesage and heard that to-morrow it would have some effect on my reaction in Quebec. I am sorry, I have to take a plane, but I will reply to that part in writing, to what has been said. There will be French Canadians as long as there are Chinese. We remain after Acadia and we intend to remain.

We could learn a second language, sure, but we are learning our second language as English because we realize we have got to make our living with English in Canada; but, on the other hand, we want to keep French also as a language. I realize that to-day more and more the educated





people in any country have a second language.

PROF. McWHINNEY: Or a third.

MR. SEGUIN: Or a third or fourth even in the case of Europeans.

PROF. FOX: Is it not true, Mr. Seguin, that there is a movement amongst the French Canadian lay population to have non-confessional French bilingual schools? This would meet Mr. Magone's objection if you succeeded.

MR. SEGUIN: There is. We know at the present time and we realize that we will not be getting any confessional secondary schools, and we are prepared, like the University of Ottawa or Sudbury, to go to the public system.

MR. MAGONE: I simply believe you cannot separate the two.

PROF. MEISEL: Why not?

MR. MAGONE: I cannot see how you can possibly give concessions to the French population and not to the Roman Catholic English population.

MR. MEISEL: You don't: you simply have no confessional schools. You establish non-confessional schools which teach some subjects in French. They are not confessional.

THE CHAIRMAN: Whether they take advantage of it is another matter.

PROF. MEISEL: They are not Roman Catholic in other words.

MR. SEGUIN: They are ordinary public





schools under the high school board.

PROF. MEISEL: No confessional schools.

MR. SEGUIN: The City of Welland, for instance, there are no French-speaking separate schools in that city. All the French-speaking schools are under the public school system. We have forty-five classes in the public schools there.

MR. MAGONE: What you are saying, in other words, is that the province will set up a bilingual school (let us talk about primary schools) but will not set up and pay for Roman Catholic separate schools?

MR. SEGUIN: Secondary.

PROF. MEISEL: Right.

MR. MAGONE: No primary to begin with.

MR. SEGUIN: The primary, we have them now.

DEAN LEDERMAN: The issue is on the secondary schools.

MR. MAGONE: Primary we have in Ontario.

MR. SEGUIN: Primary, we have separate schools in Ontario. It is a matter of the secondary schools.

DEAN LEDERMAN: There is another respect in which the situation is changing. There has been a great move towards larger school unit and the larger school districts, and the one-room schoolhouse has gone. If you are going to get education in any language, you must have these larger units, and the larger units raise all kinds



of possibilities of shared accommodation within the same school building under the same general school board. You can have in these big high schools some history classes going on with the language of instruction in French and others in English.

The Americans are exploring some of these possibilities because of the pickle they have gotten themselves in about the constitution and parochial schools. There are some examples of shared accommodation having worked even in the constitutional situation there, which is more difficult than ours the way it has turned out.

PROF. McWHINNEY: It prohibits aid to religious education in terms, but even in the face of this they have been working out some solutions with shared accommodation.

PROF. CONWAY: And school buses.

DEAN LEDERMAN: I think the larger school unit, just as you said, opens up larger possibilities.

PROF. McWHINNEY: Can you at the University of Ottawa situation, for example the law school, do both civil law and common law at once?

MR. SEGUIN: No.

DEAN LEDERMAN: I cannot think of that particularly at the moment other than to mean two institutions under one roof.

MR. SEGUIN: It is two different laws.



That has no bearing at all.

PROF. McWHINNEY: Aren't there some common courses - constitutional law, for example?

MR.SEGUIN: No.

DEAN LEDERMAN: I don't know. Mr. Seguin would know; but the larger school unit, particularly at the high school level, opens up all kinds of possibilities.

THE CHAIRMAN: You could have a high school in such a community in fact taking advantage of the economies of overhead and scale and so on, and part in English and part in French, and serve both groups of that community.

DEAN LEDERMAN: All history students of grade 11 are not going to be in one classroom anyway. There are three or four or five or six history classes have to be run.

THE CHAIRMAN: It has the additional advantage that you have got people of the different languages living together in fact in the same school and having a deal of opportunity for talking in each other's tongue.

DEAN LEDERMAN: The key to this is bilingual competence.

THE CHAIRMAN: They might be being taught history in different tongues but playing football in the same field, so to speak.

DEAN LEDERMAN: Perhaps, and with the current language labs and tape recorders and so on,







the technical possibilities of good language instruction are now a thousand miles ahead of what they were when I was in high school. My eyes were taught, not my ears or tongue, and I still cannot use my ears or tongue in the French language.

PROF. McWHINNEY: I think it is quite clear you can teach any technical subject fairly clearly in a language other than their own. I think the Moscow University experience is quite decisive in this, but I have seen it also in Germany with African nation students with far more difficult languages to cross over from.

This possibility you mentioned, Bill, of pooling resources, seems to be very promising, if you extend not merely to natural sciences but even beyond the history and social sciences.

PROF. CONWAY: The American Army school is very interesting and very well worth study. You take a corporal with very low I.Q. and teach him Polish or Czech, or whatever the Army happens to need, so that he can use it effectively, and can do it in a year. That is, the technical problem of acquiring another language is not that difficult any more, provided the incentive is there.

PROF. McWHINNEY: In Vietnam you will notice how many Americans now are fluent in the language for sufficient purpose to operate there.

THE CHAIRMAN: Paul, does the cultural committee plan to meet with officials of the



Department of Education involved in some of these technical points?

PROF. FOX: There has been, as you well know, long delay on the part of officials in getting in touch with me. It has been suggested I had better go and get in touch with the officials.

THE CHAIRMAN: I was wondering if we could draft a letter for Mr. Davis to sign, to his officials, if that would get the thing started.

PROF. FOX: Or it might be a telephone call ----

THE CHAIRMAN: Or perhaps, Don, you know one of them pretty well.

PROF. FOX: I think the idea was my appointment was to have been essentially a fact-finding mission, and was to find out what details were in the five or six files or what the facts are in reference to the teaching of French or instruction in the French language in the public school system. Then perhaps we would have more facts on which to base our discussion. I think that can be done pretty rapidly once the people are willing to see me.

PROF. BRADY: Mr. Davis notified them, didn't he say?

PROF. FOX: I understand one of the problems was that one of the people was away ill.

THE CHAIRMAN: Another was on holiday.

PROF. FOX: I do not think there is



any difficulty. I think it is merely a matter of closing the arrangement now.

I think we all feel, in the cultural sub-committee, that this is something that has to be discussed on the basis of more facts than we now have, and that this would help us in the discussion of the problem.

On the other hand, I think we feel, as John Meisel expressed earlier, that this is something we should not drop but we should continue to examine it and look into it further and attempt to arrive at some sort of decision on the part of this Committee. So I would hope that before we meet again in May, I would have something to give you on this.

THE CHAIRMAN: Good.

PROF. MEISEL: I think there is a basic difference of opinion, certainly between myself and one Professor Creighton, on/point of this.

I think Professor Creighton accepts without undue anxiety the ethnic disappearance of a substantial proportion of French-speaking Ontarians, whereas -----

PROF. CREIGHTON: Just accepting it as a probability, with no feelings at all.

PROF. MEISEL: I deplore it. I think, given the nature of the country, it is highly desirable that French-speaking Canadians who live in Ontario can feel that their cultural identity







is not wiped out by the dominant English-speaking culture.

Therefore, I think there is a real and genuine difference of opinion here between us, in that I think steps ought to be taken to ensure the survival.

PROF. CREIGHTON: I think the only difference of opinion is that I am very doubtful whether these steps will be efficacious in the long run.

PROF. MEISEL: But I think they will be, and I also think that even if they were not going to be, we should try, in view of the broader context in which this whole thing is being discussed in Canada; because it is not unrelated to the business of English-speaking Canadians in Quebec. I realize that their constitutional position is different, but I think their constitutional position is not going to remain untouched unless the political and cultural position of French-speaking Canadians outside Quebec - and notably in New Brunswick and Ontario - is improved in the sense of their schooling opportunities being provided in French. But this is not something we can really discuss very fruitfully because I think we are really making different guesses about the future here.

PROF. FOX: It is very important though, I think, that we make the right guesses, and I would associate myself with what John says.



I think it is absolutely critical to the maintenance of the whole country that the Franco-Ontario population be preserved. I think the other element in preserving it is to permit them to have schooling under the conditions we have been discussing, not to produce unilingual people but to produce bilingual people.

DEAN LEDERMAN: No one can be sure what the future holds from either course of action, but we have to try this course of action; we have to try for real bilingualism.

DEAN DILLON: I would certainly like to support that. I think this bilingual character, if we can develop this, will be one of our strengths in preserving the nation as an independent part of the continent. I think if we take the other view, we shall have less to fall back on, if we wish to fall back on anything.

THE CHAIRMAN: I suppose, taking the historical view, the whole answer to this revolves about technology and inventiveness. We are tempted to condition our approaches to this in terms of the difficulties of it. By the same token there are times when one would have approached aviation in the same point of view. If what I am told about language teaching is true, the difficulties may become meaningless.

PROF. MEISEL: This has never been an effective argument anyway. If you want to learn



a language or four or ten languages, you do.

People who have to, do.

THE CHAIRMAN: Except if the equation of easiness and compulsion is tilted a certain way.

PROF. MEISEL: Well, naturally. You  
with  
are quite right that/the present devices and present knowledge about this, it is certainly easier to learn a language.

PROF. McWHINNEY: There is more of a psychological barrier than a real one. The second language is always the hardest. The third is a little difficult, but, you know, you march on. I think any of us who worked in any project involving foreign reading, know this is true.

THE CHAIRMAN: I am sorry, John. May I interrupt a minute. I think you were out when we discussed the amended agenda, which was to meet on the regular date in May, Friday, May 20th, and to leave Friday, June 24th, open.

MR. SEGUIN: The 24th? St. Jean Baptiste Day?

THE CHAIRMAN: We have special plans.

MR. SEGUIN: It should not be.

THE CHAIRMAN: That is a tentative date.

PROF. CREIGHTON: It was I who drew attention to this.

MR. SEGUIN: I thought you would be in Quebec that day.

PROF. CREIGHTON: Perhaps we might do that.







THE CHAIRMAN: Maybe that is the answer. We were thinking of asking Claude Morin to speak that day. Maybe we should go to Quebec and really see the thing in action.

PROF. FOX: May I suggest the other members of the Committee who are absent might be told of this fairly rapidly, because they might be making plans.

THE CHAIRMAN: Better make a note to call them Monday, Don. That is Father Matte, Gathercole, Symons, Forsey.

MR. PERRY: I was going to suggest, Mr. Chairman, that you adopt this as a general rule, perhaps shortly after a meeting, to send out an announcement to all members. Probably it would be the simplest way out. Once or twice I have not attended our meeting through ignorance of the date until it was too late to change other plans.

THE CHAIRMAN: That is a good point. Any other points on the school or educational front before we move on? Any other matters from Professor Brady's paper you would like to review?

PROF. CONWAY: I want to say something in connection with the school and education thing.

I, in one way, have a certain amount of agreement with Professor Creighton. I am by no means convinced that French can continue in the Province of Ontario. As a matter of fact I was talking to someone about the industrial pattern



of Ontario, and what this is going to be over the next ten or twenty years. I am not sure of this. You could make some case for French in North America, but I really do think that as a political matter, as a measure to ease tension, to minimize and do away with possible retaliatory measures in the Province of Quebec, that it is very, very urgent.

The other must be speculative. We cannot be sure one way or the other. One thing we can be sure of is that there is going to be a very complicated row in Ontario and in Quebec unless measures of this general nature are taken. In terms of practical politics, it seems to me the case is very, very sound.

THE CHAIRMAN: What about the long-standing counter-view that there will be political problems in Ontario if such steps are taken?

DEAN DILLON: I think there would be political repercussions if anybody suggested we go as far as we did last time when we discussed this matter, on the basis of whether -----

THE CHAIRMAN: The official language?

DEAN DILLON: Official language. I think we are talking about two different things here.

DEAN LEDERMAN: I notice Professor Brady has drawn back considerable from that position. In your paper, Dr. Brady, you down-graded the urgency of French being an official language quickly in Ontario, and concentrated on education.



PROF. BRADY: I think education has certainly first priority. It might be advantageous but it might not be feasible politically, for Ontario to recognize French as an official language.

MR. MAGONE: It is still mentioned in here and left open.

PROF. BRADY: Yes, I left the question open.

MR. MAGONE: But if this is to be distributed beyond this group, I would suggest that the last three lines on page 34 should be deleted.

DEAN LEDERMAN: You mean, if this were to become a public document?

MR. MAGONE: "The question of the recognition of French as an official language is not discussed for lack of space. In any case it has not the primary importance of language rights in the school. It is something that may be introduced later."

PROF. McWHINNEY: Perhaps you would prefer to think of it as a permissive language. I think we discussed situations where it would render an injustice not to let people use French, and this will then propose discretionary powers of bodies -- "permissive" might be a better word than "official" language.

THE CHAIRMAN: Ray?

MR. FARRELL: Mr. Chairman, I just wonder,







since, as Mr. Seguin says, they are apparently not pressing for science and maths, how much really further there is to go in the Ontario high schools to make them bilingual.

As you probably know, a number of courses were introduced last year that were not before, and now they can be taught in either French or English geography and, I think, history, and there already were several.

If you leave out maths and science as Mr. Seguin says they would want, how much really is there left? Presumably German, if you are teaching it, you teach it pretty well as much as you can in German, and Spanish and Italian.

PROF. McWHINNEY: Chinese.

MR. FARRELL: Many of the others. I just wonder how much further there is to go before they get what Mr. Seguin thinks they should have. I do not know really what courses would be left.

THE CHAIRMAN: That is a very good point. This is the sort of thing we would hope to have in Paul's review.

PROF. McWHINNEY: I suppose it means an emphasis then on facilitating the adoption of French where particular school boards wish to do so, as their prime language of instruction, but expecting political, business facts increasingly to mean that the choice of French would only operate in certain areas and predominantly cultural



ones. It could not make sense for any intelligent school board official to be so nationalistic as to want everything in French, if obviously it was at the expense of competent instruction.

THE CHAIRMAN: Are there other matters now from the Brady report?

DEAN LEDERMAN: One very minor point on page 36:-

"The problems raised by the swing of the  
"pendulum, described in the first section  
"of this paper, or those raised by the  
"emergence of a new and nationalist  
"Quebec, can best be resolved by the  
"close co-operation of the ten governments"  
Should not that be eleven - top of page 36?

PROF. CREIGHTON: I think the federal government was left out.

DEAN LEDERMAN: Should be "eleven".  
I am sure that was the intention. It was  
Newfoundland, I suppose, not the federal government  
that was forgotten.

MR. MAGONE: Has everyone got a clear  
idea of what the Province of Quebec is doing in  
relation to education of the so-called English-  
speaking minority? I must say that I have not.  
I hear them speaking about: "We want you to do  
in Ontario what we are doing in Quebec for the  
English-speaking minority".

PROF. FOX: Well, very briefly, what



exists there are two entirely separate school systems, Protestant and Roman Catholic.

MR. MAGONE: I understand.

PROF. FOX: They do not tend to follow linguistic lines, but they follow religious lines, so that you have virtually a Protestant school and Roman Catholic.

PROF. CREIGHTON: It is called Protestant school, but in fact it is not; it is secular.

PROF. FOX: What it really amounts to, each of the two religious groups, which boils down pretty well to the linguistic groups, have their own entire school system, public school system, up to the final year of the secondary school level.

PROF. CREIGHTON: Paul, Protestant in name only now really.

PROF. FOX: There is a difficulty because there are some people in Quebec, as you know, who now want a third division for non-confessional people, and some spokesmen for the Jewish now ---

PROF. CREIGHTON: There are Jewish schools in Ontario which are, of course, inside the system and have been for a long time.

PROF. FOX: It is very interesting because with the new wave in Quebec there are an increasing number of French-speaking laymen who want their children educated in purely non-confessional French schools. Therefore they want a secular school system in French.







PROF. BRADY: This is within the French system, not Roman Catholic.

PROF. FOX: Not within the Protestant system. There is not very much pressure there.

PROF. BRADY: No, because it is so much more secular.

PROF. FOX: Yes. It creates problems. For instance, a friend of mine who is an English Canadian, moved to Montreal from Carenton, Ted English, and wanted his lads to get the benefit of instruction in the French language, and could not get his children educated in French language schools because those French language schools were confessional. There is this saw-off between the two, in that they will not take payment from families of the other group, and there was nothing he could do about it.

DEAN LEDERMAN: That is a private school.

PROF. CONWAY: Is it the only one of its kind?

PROF. FOX: I would not like to say. There may be a number of private schools.

In addition to what we have been discussing, I think the general understanding is there would always be opportunity for any group of parents to establish a private school.

MR. MAGONE: Yes.

PROF. FOX: They could teach in Swahili or teach Protestantism or Jehovah's Witness or



anything. For example, if some ambitious people of Delasalle wanted a change, they would have the opportunity to change, but the parents would have to bear the cost.

MR. MAGONE: You say there is public education of these two classes we are talking about up to Grade 13?

PROF. FOX: Up to Grade 12 there. This is a very bitter point, and I think we must accept it, in all equity, that there is this provision in Quebec for Protestants, and there is not in Ontario for Catholics of either English or French.

MR. MAGONE: No.

PROF. CREIGHTON: The systems are different; there is an historical difference. That is the point.

PROF. FOX: They are different, yes, but I read the French press, or at least I read *Le Devoir* pretty consistently, and I can say that over a period of time amongst the radicals of the French Canadian community there is an increasing demand for restriction of the English privileges in Quebec if privileges are not granted in other provinces to French-speaking students. You may say this is unwarranted and unfair treatment, but it is a fact and they can make great capital out of this.

Bourgeau the other week I was reading,



and there he was flailing away at it. It is grossly distorted. What Ontario has done is not fairly presented at all.

THE CHAIRMAN: No, this is what interested me, though I confess to a degree of ignorance of the true picture.

PROF. FOX: I think two members of this committee were totally ignorant of the fact that there was any provision within the public school system in Ontario for any French-speaking student to be taught in his own language in certain localities in Ontario, until we got into the committee a year ago and began to find out, and this is a fact.

I remember on one occasion arguing with a French Canadian in Quebec and saying there are such schools in Ontario, and he said: "You are wrong. There are not." I said: "I know there are." He said: "Show me the facts" and I did not have the facts, but he is so imbued with the propaganda of the position in Quebec that he is not even aware, but that is not surprising because even we were not aware.

THE CHAIRMAN: Yes.

PROF. MEISEL: Other reasons for that, though political probably. The government has seen fit to make substantial revision.

PROF. FOX: Kept it under wraps.

PROF. MEISEL: So that in fact the





French-speaking are given great opportunities, but it is not being broadcast because there is some fear it would have unfortunate political consequences in some of the more Orange part of the province.

PROF. FOX: I would like to add something else I think ought to be within the knowledge of members of this Committee. That is that Mr. Seguin and Father Matte are involved in a terrific battle within their own organization to achieve non-confessional French instruction schools in this province. Both of them believe in this, and there is a body of lay opinion amongst French Canadians of Ontario who support it, but thus far the English Roman Catholic hierarchy has been very opposed. They are trying to move their organization to the point where the Anglo-Saxon hierarchy will fight these demands for confessional schools, so that the religious element may be eliminated, but he is over a barrel at the moment. They have just had their meeting in Ottawa and he was really caught in the fire between all this. It was reported in the French Canadian press. This is why he is in rather a difficult position in explaining his stand to us here, because there is this tremendous division.

PROF. CONWAY: Father Matte is ----

PROF. FOX: Father Matte is on this, and there are a substantial number of, I gather, French-speaking Roman Catholic clergymen and, of



course, laymen supporting this, and the movement is growing.

MR. STEVENSON: It is similar to the situation in Welland, where the French Canadians wanted the separate schools in the French language but the basically English-speaking separate school board would not permit it, but the public school board did, and this is why you have the French-speaking public school network in Welland.

PROF. CONWAY: Of course, there is a great issue in the United States at the moment, you know, about the parochial schools, a fight within the Catholic Church about this, that they should be continued.

THE CHAIRMAN: What is the medium, Paul, in which Mr. Seguin and Father Matte are involved in this struggle? Is there a formal committee or group that is watching this?

PROF. FOX: Yes, they have their own association of French Canadian schools, A.F.C.O., and they are fighting it in there, but then there is a committee of all Catholics who are involved in separate schools, both English and French, in which there are three French-speaking bishops and three English-speaking bishops, and three or four representatives of Mr. Seguin's group and three or four representatives of the Roman Catholic Separate School Board, the English part, and the trustees of the school board as well. That is



where the battle is being fought out.

DEAN DILLON: Is this a provincial organization?

PROF. FOX: This is an Ontario organization of the Roman Catholics involved in education both French and English, and it is really a battle between the English-speaking Roman Catholics and French-speaking Roman Catholics.

MR. MAGONE: It is the Irish and the French.

PROF. CREIGHTON: Not for the first time they have been in battle.

PROF. BRADY: I think it is worth emphasizing we are not innovating very drastically, mind you, in giving this greater recognition to French in schools. You might say the crucial decision was taken some years ago when the separate school boards or public school boards (as in Welland) agreed to teach in French.

Now, it is true, of course, that this initiative was taken in the primary school, which, as Professor Creighton said, is close to the community, but it is the important decision, it seems to me. The kind of step that would be taken by the Prime Minister now is in line with a development that had been pretty significant over the last quarter-century.

MR. MAGONE: What school board would have control of the French language schools?

PROF. FOX: Public school board. They







are public schools.

MR. MAGONE: I am talking about Ontario.

DEAN LEDERMAN: Yes.

PROF. BRADY: Separate school boards are public.

PROF. FOX: In Welland you mean? In Welland the French-speaking schools are all public schools under the public school board, not separate schools.

MR. MAGONE: In Georgetown, do you know?

PROF. FOX: I don't know.

PROF. BRADY: In the rest of Ontario it is mainly the separate school.

MR. MAGONE: They would look after the congregation from Eugene Forsey's church. He goes to the French-speaking church.

DEAN LEDERMAN: There is a little story about Sir John A. MacDonald, that he had two handkerchiefs, one orange and one green. It depended where he was in Ontario how he blew his nose.

THE CHAIRMAN: Can anyone recap the Georgetown incident for us?

PROF. FOX: Wasn't it that the French-speaking parents wanted a kindergarten class in French under the separate school board, and it was the separate school board that would not give them their class? I am pretty sure.

PROF. CREIGHTON: This is, of course, the difficulty, because in a sense the separate



school board, it being the other side, Irish, has always been most reluctant, and this is likely to be.

Of course, the difficulty is this whole thing would seem to need a statute, and a statute would bring it into the open and might make it controversial. They suggest that, if possible, it ought to be done, if it can be done, through existing machinery, untouched or unaltered.

This has grown up, as we all know -- there was at first almost no French, in fact there was no -- this has grown up as part of the separate school system.

PROF. FOX: Yes, it is done by direction of the Minister.

PROF. CREIGHTON: This is why I am doubtful on Alec Brady's suggestion for a statute in this matter. I think it would possibly focus objections to it in a way that this rather administrative development of the same privileges would not. In other words, once again, you move within the existing law, but you try to make concessions where they are desirable.

THE CHAIRMAN: Before we scatter and break up, do you want to have just a moment to consider the disposition of the economic and fiscal committee's paper? Are there certain things you would like to work out? We did pass over two of the postulates, and only because we happened



to turn attention to this. There may be other points.

MR. MAGONE: I have a suggestion to make, Mr. Chairman in connection with the so-called postulates.

THE CHAIRMAN: Professor McIvor wrote out two of them last night.

PROF. FOX: Whatpage are we at?

MR. STEVENSON: Page 15.

MR. MAGONE: My suggestion deals with postulate No. 4, which is the one I think we were discussing before.

THE CHAIRMAN: Yes.

MR. MAGONE: I suggest this change for your consideration:-

"The following basic postulates have  
"been assumed by the sub-committee in  
"their consideration of fiscal arrange-  
"ments for the future"

striking out the word "specific", and then continuing with (4), that is, reading on from the heading "... fiscal arrangements for the future" and then (4): "Should be made available to all provinces". How does that strike you, Mr. Perry? Is that an improvement?

THE CHAIRMAN: Can we have that again?

MR. MAGONE: Yes. Reading the top:-

"The following basic postulates have  
"been assumed by the sub-committee in





"their consideration of fiscal arrange-  
ments for the future"

And then reading down, (4):-

"Fiscal arrangements for the future  
"should be made available to all provinces"  
or they "should be available".

MR. PERRY: Wasn't the problem that  
people did not want to agree to uniformly -- that  
they wanted to leave open the possibility of deal-  
ing differently with different provinces.

MR. MAGONE: That is what I had in mind.  
If it does that ----

THE CHAIRMAN: Would you like to hear  
Professor McIvor's words, which is another form.  
He said that:-

"In principle any federal-provincial  
"fiscal arrangements relating to  
"shared-cost programs or to opting-out  
"and fiscal equivalents provisions,  
"be uniformly available to all the  
"provinces."

MR. PERRY: It seems all right to me,  
as long as one knows what "uniformly" means.

MR. MAGONE: I would too.

THE CHAIRMAN: There is the problem of  
the disagreement with the whole principle, and  
whether one wants to distinguish the principle  
or tinker around in a way which is going ---

PROF. CONWAY: I would suggest strongly



however just striking that out. One cannot make a rule about it. The first three cover so much. Do we need the fourth? Cannot we leave that to the discretion of the public officials concerned?

THE CHAIRMAN: Better just recite Professor McIvor's for the first, which we felt was a bit thin:-

"The continuing need for the retention of  
"effective fiscal powers by the federal  
"government in order that such powers  
"be available to promote stability,  
"growth and other national economic  
"objectives"

PROF. McWHINNEY: Why do you object to that?

THE CHAIRMAN: I recall yesterday there was some question that point (1) was a bit thin and vague.

PROF. McWHINNEY: What you have just read is a new suggestion?

THE CHAIRMAN: New suggestion by Professor McIvor.

PROF. McWHINNEY: I think it is considerably better, the one you just read, frankly. I had misunderstood you. I thought that was the original one.

THE CHAIRMAN: "The continuing need for  
"the retention of effective fiscal powers  
"by the federal government in order that



"such powers be available to promote  
"stability, growth and other national  
"economic objectives"

PROF. McWHINNEY: It is very much better.

PROF. MEISEL: This is a very small  
point. I do not know whether you want to bother  
with this, but if this should ever be translated  
into French, it would be easier if we were to  
use "Canadian" instead of "national" there.

THE CHAIRMAN: In point (1)?

PROF. MEISEL: Yes: "Canadian economic  
objectives".

DEAN LEDERMAN: I like the new one, and  
perhaps we just drop (4) altogether.

THE CHAIRMAN: How would the disposition  
of the Committee be to adopting the new (1) and  
dropping (4)?

MR. PERRY: I must warn you, there will  
probably be another Hydro black-out when this  
becomes known.

PROF. CREIGHTON: Generated in Ontario.  
this time.

THE CHAIRMAN: I think we have govern-  
ment by majority, particularly by presence.

MR. PERRY: You have been spared the  
champion of this section.

PROF. CONWAY: You could do, Mr. Chairman,  
as is done at the U.N. in these cases: you could  
issue a statement that with the new formula (1)





it is understood that power would be covered as a matter of interpretation within (1). That is a very felicitous solution.

THE CHAIRMAN: I think our colleague George is a hard fighter and a good loser.

MR. PERRY: This is like the preamble to a statute anyway: it is meaningless.

PROF. MCWHINNEY: That is rather tough on statutes.

MR. PERRY: You only read the preamble if you cannot understand the rest of the statute.

THE CHAIRMAN: Do you feel comfortable enough about the paper as such, to want to convey this to the Prime Minister? I waved it in front of him the other day and said that in the passage of time something of this kind would come along, and he expressed the greatest interest.

PROF. FOX: I think it is an excellent paper, Mr. Chairman and, not having participated in its formulation, I would like to compliment the sub-committee on their work.

DEAN LEDERMAN: Hear, hear!

PROF. FOX: I think we are inclined to feel comfortable about most things at this time in the afternoon, but apart from that I think we are pretty favourably disposed towards this paper.

THE CHAIRMAN: May I take it that it would be in accord with the Committee?

PROF. CONWAY: With the changes.



THE CHAIRMAN: With those changes -- to pass it along. This will be very useful, I assure you, because we have got a great deal of work under way in this field. Don and I spent from about three o'clock Friday afternoon till eleven-thirty with Mr. Roberts in a briefing session on various formulas.

PROF. CREIGHTON: You will perhaps be able to say in the future, when somebody asks embarrassing questions about our labours, to the extent that they said last time that not much had yet come out of the Committee, that here is something pretty formidable coming out of the Committee.

THE CHAIRMAN: I am giving you the suggestion that while we are still in good spirits, we might break up over coffee.

PROF. BRADY: Dean Lederman was to comment.

THE CHAIRMAN: I am sorry, yes.

DEAN LEDERMAN: Mr. Chairman, I would suggest that I write a letter about this, and you can circulate it when you send material out.

PROF. CONWAY: So that we have all this down ----

THE CHAIRMAN: In the Forsey tradition.

DEAN LEDERMAN: I read it for the first time last night. I think it must be questioned very seriously on its institutional side and the things it says, but I would rather



put this in a letter at this point and have it go round.

PROF. BRADY: It has got some odd remarks about Supreme Court.

THE CHAIRMAN: I think we might discuss them because this document ---

DEAN LEDERMAN: You can't - what it says about the Supreme Court, can't tell what it means, Committee of Sixty.

THE CHAIRMAN: -- this document received some attention in the press, and because they are a large and well known group, and I know, again, Mr. Robarts expressed interest and I think, as this gets into public discussion, there may well be questions raised about it, so it would be good for us to have a position on it.

DEAN LEDERMAN: I cannot write letters as well as Dr. Forsey, but I will try.

-----The meeting concluded at 3.45 p.m.

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ONTARIO ADVISORY COMMITTEE ON CONFEDERATION

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M E E T I N G

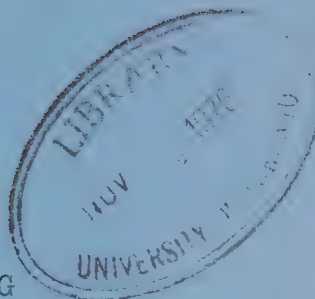
held at

The Park Plaza Hotel,  
Toronto

on

FRIDAY, MAY 20, 1966

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VERBATIM REPORT OF PROCEEDINGS

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ONTARIO ADVISORY COMMITTEE ON CONFEDERATION

M E E T I N G

held at

The Park Plaza Hotel,

Toronto

on

FRIDAY, MAY 20, 1966



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VERBATIM REPORT OF PROCEEDINGS





ONTARIO ADVISORY COMMITTEE  
ON CONFEDERATION

--- Meeting held at the Park Plaza Hotel,  
Toronto, on Friday, May 20th, 1966.

PRESENT:

Cabinet Committee:

Hon. John P. Robarts, Q.C., Prime Minister

Hon. A.A.Wishart, Q.C., Attorney General

Hon. J.N.Allan, Treasurer

## Advisory Committee:

Mr. I. Macdonald (Chairman)

Prof. A. Brady

Prof. J. Conway

Prof. D. Creighton

Prof. P.W.Fox

Mr. G. Gathercole

Dean W. R. Lederman

Mr. C. R. Magone

Prof. R.C. McIvor

Prof. E. McWhinney

Prof. J. Meisel

Mr. H. Perry

Prof. T.H.B. Symons

Mr. M. Seguin

Mr. D. Stevenson )  
                     ) Co-Secretaries  
Mr. R. Farrell     )

Mr. R. Delisle



--- At 2.15 p.m.

THE CHAIRMAN: Gentlemen, I think we might get on, if you will. In welcoming the Prime Minister and the members of the Cabinet, I might report just briefly that the Committee has been carrying on in the three sub-committees -- economic and fiscal, the constitutional and the cultural -- preparing three materials and three studies.

We plan, I presume, one more meeting next June before the break over the summer; and over the summer various research projects are commissioned and under way.

There were, following my discussions with the Prime Minister the other day, three matters which we thought might be appropriate to review as timely questions as long as the members of the Cabinet are able to be with us.

First was the consideration of the highlights of the report the Committee had into the position in federal-provincial financial relations. Then we thought it might be useful to give some guidance to the Committee on a similar approach which is planned in the constitutional area, that is to say to try and produce a major position paper (so-called) which would set out the basic issues that are present



or imminent on the constitutional side, and provide an analysis of the underpinnings of those questions.

Then finally, if we have time, and if you consider it appropriate, sir, there is the question which has run periodically throughout our discussions as to the relationship of this Committee as such to the public.

I think I am summing up the view of the Committee accurately when I say the Committee has considered itself as a private advisory committee to the Prime Minister and to the Government. We are also conscious that there have been repeated questions raised about the reporting role or the quasi-public role of the Committee. We thought it might be helpful to you, and also provide some clarification to the Committee, if we touch on that point as well.

I have asked Harvey Perry if he would initiate the discussion.

HON. MR. ROBARTS: I wonder, just as a matter of convenience, because I know that the Attorney General has a group sitting over in his office on another matter, perhaps we could deal with the second of your three items first and then, Arthur, you would not need to stay while we discussed the economic questions, but really the second one is the ---





HON. MR. WISHART: Constitutional.

HON. MR. ROBARTS: ~~Position~~ from the constitutional point of view.

THE CHAIRMAN: Very good, Bill. Can you lead us on there a bit?

DEAN LEDERMAN: Mr. Chairman and Mr. Prime Minister. Spurred on by the good example afforded by the economic sub-committee, we thought in our discussions last month that we might make a comprehensive effort in the constitutional sub-committee to put together a paper of reasonable length covering the high points of the main issues concerning the constitution.

Now this, of course, is quite an ambitious and complex factor. I am not sure that this material is as tractable as the economic material or that it lends itself to this sort of thing as well as the economic material does, but we ought to try, and this has been our feeling. I know Dr. Creighton feels very strongly that we ought to try this.

We had quite a discussion of this in the sub-committee this morning, and I think what comes out of it is this suggestion that under six or seven headings various members of this Committee ought to attempt to outline in a paper of modest length -- not a modest paper but a paper of modest



length -- the essential issues for Confederation under these various headings. I just mention the list of suggested headings which I put forward last month, and there is nothing sacred about this list, but the list of suggested headings is as follows.

First, the legislatures and executives of the federation. This would involve, and I have as sub-headings here

- (a) the democratic principle - the  
House of Commons and provincial  
Legislative Assemblies
- (b) The Senate -- ~~Composition~~ and  
function of second chambers
- (c) Responsible government under the  
Cabinet system.

And (d) is a general issue that perhaps appears here and appears behind other issues also: the question of majority rule or minority veto; the question of when majority rule prevails and when a majority rule stops and there is in some way or other a position where a minority can veto action.

We already have a major comparative study on second chambers commissioned. Professor Watts is to produce as a major study on second chambers this summer.

Dr. Creighton is going to do a paper on the



Canadian Senate, drawing on his background in this respect.

Dr. Forsey, as you know, has been writing on the implications of voting-in and opting-out which is involved here. So some work is already under way under that heading.

The second heading was the amendment of the constitution, and I divided this into two parts: (a) procedure; (b) substance. Under procedure, the Fulton-Favreau formula and alternatives, and bringing the constitution home. (b) is the substantial question: assuming that you do get some means of amending the constitution, what amendments do you want to make and (the very basic part of it) the distribution of powers.

Thirdly I mentioned constitutional interpretation of the Supreme Court of Canada. I think we already have sufficient material on hand to write this one up and the Committee has taken a position on this.

Fourth, civil liberties and minority rights.

(a) individual rights and group rights

(b) how to provide or protect such rights

Are we to have a specially entrenched Bill of Rights on the American model or a Bill of Rights which is simply enacted as an ordinary statute? This involves questions of the respective roles





of courts, parliaments, senates, in the protection of rights.

The fifth heading I had down -- and I should mention that I do not think we have commissioned any work in the field of civil liberties and minority rights at the moment. This is one we will have to look at.

HON. MR. ROBARTS: In that connection, in view of the fact that we have the Hon. Mr. McRuer sitting as a Royal Commission, who will be bringing in a report, I am just wondering if there would be an overlap and if that section might be dealt with after he has reported. I am just thinking that you are going to have a great duplication of effort.

PROF. McWHINNEY: It would be more courteous certainly to wait. I think he is due to report in the early fall, is he not, Mr. Prime Minister?

HON. MR. ROBARTS: Quite soon, I think. Has he told you, Arthur?

HON. MR. WISHART: No, he has not given any indication of any definite time. I think he hopes to make a report before the end of this year.

DEAN LEDERMAN: This, of course, is highly relevant and I think probably we should wait.

HON. MR. ROBARTS: You have a wonderful line-up there. You are not going to be without things to do, as I hear that list, and it might just



save you a good deal of time and effort if you were to see his report before you tackle it.

PROF. McWHINNEY: Also as a matter of etiquette, I think, too, one should wait until then.

DEAN LEDERMAN: There is certainly plenty here without getting deeply into that one at the moment.

The fifth heading I have put down was co-operative federalism, by which I mean any inter-governmental arrangement that rests on mutual consent, that is, where agreement is necessary. There are a number of things listed there. I will not take time to read them now, but I should mention, I think, that, for instance, Dr. Brady is engaged at the present time in a major study of the Dominion-Provincial Conference, and will be producing a paper in that respect.

Sixth -- international relations, the Federal Government and the Provincial governments. We have already carried this some distance forward. In our research work in the constitutional field Mr. Delisle has been interviewing various officials of the Ontario Government about trans-border arrangements in general and finding out just what the scope of these arrangements is.

So that, if nothing more, at least there



will be a document which permits the government to answer questions about what is involved in this field.

Also, of course, there have been assertions, suggestions out of Quebec that trans-border arrangements of various kinds in which the province is engaged, have certain implications.

The seventh heading I mentioned here was: basic sociological factors shaping public attitudes to Canada's federal institutions. I am going to blame John Meisel for that one. He suggested that we ought to be probing this deeply into some of the basic factors in the country as they bear on our federal institutions.

If I may just say a word or two more, what I envisage in putting out a list of six or seven topics like this, is that some one member of the ~~C~~ommittee might take a topic and produce a paper of 20 or 30 pages on it; that we do this for the six or seven topics, and then, when the paper has been prepared, we hold meetings and discuss the papers, and in this way try to hammer out something more comprehensive than we have accomplished so far in the field of possible positions, alternative positions, preferred positions, concerning these constitutional issues.

I think I have said enough at this point to outline what we are thinking about here.





HON. MR. ROBARTS: I would think that such a document as this, when completed, would be of just inestimable value to us as a government, because under these headings, it seems to me in any event, the whole thing will be laid right out in one spot.

Is there not some work being done on the constituent assembly idea? Did I not see that on something?

DEAN LEDERMAN: Under the amendment of the constitution.

HON. MR. ROBARTS: That would be dealt with?

DEAN LEDERMAN: We will deal with it there, yes.

THE CHAIRMAN: We have the one background paper on that area already which we had in some time ago.

PROF. CREIGHTON: We were wondering, sir, whether there were any other particular topics to which you would give the same priority.

HON. MR. ROBARTS: No. I think, frankly, as I read this, as I have read it, it is pretty all-embracing. I do not see any parts. I do not know whether you have any idea, Arthur, as to anything that might be added?

HON. MR. WISHART: Well, sir, I must say it is certainly very comprehensive; and I am sure



that if it is found possible to work out a paper which will give us some ideas on this whole matter, it will no doubt be greatly helpful.

I think perhaps the item No. 2 is the most urgent, although the others are very definitely related to it.

You are perhaps aware that there has been a suggestion that we should get at least in debate on to the amendment of the constitution. Some of the Opposition people have, I believe, put a motion on the Order paper that we should have an open debate on this subject.

The fact is that we had arrived at an amendment formula which as a fact had been accepted by nine or ten provinces and received full approbation without debate in the federal House.

I think that perhaps some of the delay that we have met in one area of the country has largely had political coloration behind it which may dissipate to some extent before too long.

I think, therefore, that we will find ourselves being urged to get back to this, which everybody felt was most desirable, to get the constitution home. We created a great atmosphere for this, but somewhat to my amazement, or perhaps lack of understanding, we were met by two different sorts of diametrically opposed ideas -- one, that what we had proposed was too rigid, and the other



that it was too loose.

PROF. FOX: So it must be just right.

HON. MR. WISHART: If we could tackle these two approaches and see where one group feels that it was too rigid and the other group feels that it was too loose or not definite enough, perhaps we might solve, we might find the key there.

My thinking is we have achieved so much agreement and after some four or five conferences, that certainly it would not seem necessary to plow that ground all over again.

Now we have come up to a point where, with such basis of agreement, it seems to me there are just a few points where probably we could, after the political atmosphere subsides, get on. I think we could take a look at the objections which were raised, which I never really could understand (perhaps because I was too close to the subject); I could not see the force of the argument that it was too rigid, nor could I see the force of the argument that we had left too much space for danger to creep in.

No doubt there must be something there. I think if we could look at that and analyze these objections which were raised from both sides and see if there is a common ground, whether it would be a modification, that might be the key to (2).





As I say, I think it is perhaps the most urgent in point of time because I feel we have built our public up to think we were going to accomplish this, and there was a great measure of accomplishment right across the country. I think after a month or so we might find ourselves going back on this, if we had something that analyzed the objections, and if you think that idea is worth while it would give us a basis to go back at what we built pretty firmly as a foundation, to see if we could put up a super-structure on it now that would do it.

I will not comment on the other things until I perhaps get some of the thoughts you have in mind.

THE CHAIRMAN: We have had quite a bit of discussion from time to time about two related but separate proposals, of constituent assembly on the one hand or a conference to discuss the issues of confederation and decide whether a constituent assembly or any other means is valid.

HON. MR. ROBARTS: Yes, that is why it came to mind. There are some people advocating constituent assembly and some people advocating a conference. I think this idea could stand investigation, and they will, of course, be dealt with as you say.

HON. MR. WISHART: One other thought I was



going to express and I overlooked saying it.

I do not know if this was very prominent elsewhere than here, but we meet and you see an editorial perhaps in other provinces as well, newspaper opinion, and we meet some of it in the Legislature: that the type of conference that should deal with amendment of the constitution should not be the type of conference that has been conducted in the past, which was generally a Prime Ministers' conference, Attorney Generals' conference leading to Prime Ministers' conference. There was some suggestion, as seen from prominent political persons speaking on this, that perhaps there should be a general conference, a general debate.

I do not know how this is to be arranged. It seems to me it is not too feasible, or whether it would have any more validity than a conference of the type we have been carrying on or not. It seems to me unlikely, but I think if, Dean Lederman, you would perhaps care to give us some thought on this idea that the type of conference which has sometimes been proposed is very unwieldy and would have no authority, would have to come back and be debated perhaps in many areas.

From what I know of the subject, you are never going to get unanimous agreement in any public debate. I think you have to present something and get on with it.



There have been pretty strong opinions expressed on these conferences, they say, behind closed doors by Attorney Generals, Prime Ministers, and "why are we to be bound by this?"; although the fact is that nine provinces, almost without any debate, in all parties, accepted it, and we had the Legislature here with everyone unanimous I think.

HON. MR. ROBARTS: Except the N.D.P. people.

HON. MR. WISHART: Except the N.D.P. and one political group. I would not want to antagonize anyone by saying we are going to hold another A.G.'s conference or another Prime Ministers' conference, but I cannot see how you bring about a great wide discussion across this country anywhere which will achieve anything near the major agreement that we would bring back. This is something to think about.

PROF. FOX: I wonder, Mr. Chairman, if the right answer to this particular problem of constitutional amendment does not lie in the political realm rather than the legal? In other words, I think the legal problem has been thought through but it is really a political issue; that there may not be a great deal more fruitful legal thought on the subject but that one has to wait until the political circumstances develop so that Quebec is prepared to accept it. In other words,





there is nothing the matter with the legal formula really.

HON. MR. ROBARTS: I think what the Attorney-General is thinking of, though, is what adjustment could be made to meet Quebec's position. That, of course, would be covered by what you have in here about Fulton-Favreau Formula and alternatives.

DEAN LEDERMAN: Yes.

HON. MR. ROBARTS: Certainly, if nothing else, there was very violent debate at the time this thing was first agreed.

HON. MR. WISHART: Which I think is subsiding. There was a position taken by the Opposition party in Quebec, and I mention that I was somewhat amazed to find that position taken in the Opposition in the Federal. I do not think these opinions are really as strongly held as they were expressed, and I think once the political atmosphere has quietened ---

HON. MR. ROBARTS: I am not nearly as sanguine as you. I do not think this thing will quieten in Quebec very easily.

MR. GATHERCOLE: It may be, Mr. Chairman, that if some of these other alternative suggestions are explored, we will find there is so much disagreement on them that they will come back to the Fulton-Favreau Formula; because, even if



the atmosphere was such that it did not bring complete realization of this, then what atmosphere do you require to achieve some solution to it?

I think perhaps when people get into examining some of the difficulties of these other alternatives, they will throw up their hands and say: "We had better get back to something that makes more sense".

HON. MR. ROBARTS: I think the papers you are suggesting here -- I wouldn't know how long it would take to do because it looks like an enormous amount of work -- it would be of very great value and assistance.

DEAN LEDERMAN: Different parts of it can be done at different times. The amendment matter is urgent, and that could be tackled first.

HON. MR. ROBARTS: It would be nice to be in a position to.

DEAN LEDERMAN: I suspect the political problem -- and I do not have much judgment about political problems -- may be to find an alternative that really is not very different from the Fulton-Favreau formula, which looks different enough and it does not have to be called by the old name.

MR. MAGONE: Mr. Prime Minister, I think the Attorney General will agree with me in my recollection of what occurred, that the very people



who are complaining about the rigidity of the constitution, are not passing it, that is, the Province of Quebec, are those responsible for its rigidity.

HON. MR. WISHART: That is right.

MR. MAGONE: The governments of the other provinces wanted a great deal more elasticity in the formula, and were only satisfied to pass the formula by reason of the delegation clauses that were inserted in it, delegation of power. That is an accurate statement of what occurred at that conference.

HON. MR. WISHART: That is why it was so hard to understand the criticism. I got the impression certainly from the criticism, that some of those who were offering criticism had not understood or perhaps were deliberately not trying to understand; that there was a large political element in the criticism.

MR. MAGONE: No matter what formula they come to, the bones of it are here. It would not be changed. I am quite satisfied about that, because every alternative that could possibly be brought up has been brought up at other conferences.

HON. MR. ROBARTS: I see.

MR. MAGONE: And agreement was just impossible.

PROF. MCWHINNEY: The criticism came from





diametrically opposed viewpoints. In Quebec the basic criticism was that Quebec's claims put associate status into a straitjacket, and in English-speaking Canada the viewpoint, particularly from N.D.P. supporters, was it would put into a straitjacket proposals for more ---

MR. MAGONE: They wanted veto power before anyone else should have it.

PROF. McWHINNEY: I think Quebec's position was even showing a sort of change, because there is more legal sophistication in Quebec about the possibilities from perpetuating widespread constitutional changes through changes in interpretation of words. The sort of concept that words were somehow some sort of timeless absolute that had the same meaning in 1867 as in 1967, I think this sort of thing is changing a bit. The debates at Charlottetown in '64, this sort of thing, I think, is percolating down a bit.

I get the impression from Quebec colleagues that they are less excited than they were about the need for re-writing the constitution. In a way I think that we must say that, with all respect, both our diametric positions and the constitutional timing of the Quebec nationalist position are somewhat old-fashioned constitutional approaches that ignore realities that legal concepts may be expressed in the same words, but the real substantive



content keeps changing as the society does.

I would think amending power as such is of low priority. The real substance, the real arena of constitutional change is the Dominion-Provincial Conference and meetings of that sort.

PROF. MEISEL: Mr. Chairman, I would like to say something on the 7th point, because I think it is very closely related to what has just been said.

I think we ought to look at this thing from the close range that has been suggested, say in relation to the Fulton-Favreau formula; but also from the sort of longer perspective which begins, I think, from the notion that it may be impossible for us to reach some agreement on, say, constitutional change or even in some areas of Dominion-Provincial fiscal-economic relations where, for the time being, the interests of Ontario and the interests of Quebec, say, or any other province may not easily be compatible.

I think that one of the things we ought to do is examine the kinds of things that hold the country together, and also the sort of things that tend to pull it apart -- not purely in constitutional or purely in economic terms, but also in what Bill has called sociological factors.

What is it that makes Canadians of different ethnic origins or different regional backgrounds,



want to remain together as Canadians? What makes them want to go in their different ways?

I think there are a number of sociological mechanisms which are not always within the direct responsibility of the government, which may be fostered by government, -- relations between private individuals, relations between associations, the kind of things where people develop joint perspectives, joint experiences which create a sort of framework within which the constitutional solutions can be found or the economic solutions can be found.

I would like us to do something at least in this area, not in any way to supersede any of the other things. This perhaps is a more long-term kind of problem, but this one I think is just as important, in part perhaps because it also explains why some of these differences do occur, and why it seems so difficult for reasonable men to agree on things that seem eminently simple if you happen to sit outside them.

Therefore I would like us to try and do something under this heading No. 7, if we can, without, I think, giving anyone the hope that we have a sort of recipe that he can take with him with which to solve all problems.

THE CHAIRMAN: Are there any other comments on the constitutional area? I do not want to





rush this along but I have been sitting watching in the Legislature quite a bit this week, and I have a new appreciation of chairmanship.

(Laughter) I know you want to get away ---

HON. MR. WISHART: If I may be so bold, Mr. Chairman, as to urge that one of my very respected advisers say a word. I have always had a great deal of assistance from Professor Brady. I wondered if he might have a comment. I think I would find anything he said very valuable.

PROF. CREIGHTON: Hear, hear!

PROF. BRADY: I think on the Quebec situation, the situation seemed to be last year that Quebec did not wish to commit itself to any formula; that Mr. Lesage had agreed to the Fulton-Favreau and then began to get perhaps a little intimidated by the fury of the opposition to it, which was led by the Opposition party but which was supported by various elements in his own Liberal party. So he decided it would be better not to push on with it.

I do not think his action was necessarily a final and complete rejection of the Fulton-Favreau formula, but simply a political move; that this was not the time to try to implement it, and that a year or two later perhaps we might have this or some slightly modified Fulton-Favreau.



It is very difficult to understand his position, it seems to me, unless you think in these terms, that he was looking really at the particular political situation, and he did not wish to push through a formula that seemed to arouse such opposition in certain circles in Quebec, and perhaps which he felt would abate <sup>an</sup> after/interval and then it could be implemented.

Now, insofar as one can infer, that would be my inference with respect to his attitude, and that, of course, is a political consideration. I think it is merely illustrating what has already been said, that the issue in a sense is political.

HON. MR. WISHART: Mr. Lesage -- I do not know whether you know it or not -- was the first (I think it is fair to say this) when we presented <sup>and</sup> it to the Prime Ministers/~~you~~ were present, he said: "This will go through promptly".

HON. MR. ROBARTS: I can never get out of the back of my mind the fact that we really hit him over the head to accept that, and I was not the least bit surprised really when he pulled out of it, because he was very reluctant to accept it.

PROF. FOX: But assuming that he won his election and curbed the Legislative Council and had sufficient command of the situation that he was able to move, then it seems to me that he might



be prepared to talk in these rational legal terms.

I think our mistake here is to assume it is a rational problem, when basically it is an irrational problem.

HON. MR. ROBARTS: Politically we will have answers to the problems that you are passing to here in the relatively near future.

MR. STEVENSON: Mr. Chairman, I would be pretty sure, on the question of timing, that the report of the Quebec Legislative Committee on the constitution, which will probably get into this area as well as the substantive issues in the constitution itself, will have to be a prerequisite of any official Quebec agreement to a new amending formula. This may not be for another year or so.

PROF. FOX: Maybe you could separate delegation of powers from constitutional amendments and go for delegation.

HON. MR. WISHART: This is one thing that was suggested, that we perhaps make it look different. It might be one way to approach it.

DEAN LEDERMAN: I am sure we can do something with this, sir, and give this priority.

HON. MR. WISHART: Mr. Chairman, then I will excuse myself if I may, and wish you well in your endeavours.

--- Hon. Mr. Wishart retired.





THE CHAIRMAN: Harvey, do you want to carry on?

MR. PERRY: The Prime Minister has been good enough to say that he had seen this document and is familiar with it to some extent.

For the first few pages it is simply a review of recent developments, and a very brief and sparse one at that.

We come pretty quickly to what are sort of the general issues in this area. Being economists, we emphasize the importance of maintaining an atmosphere in which the fiscal system can contribute to economic development.

Although conceding at the same time that there are many other non-economic conditions which must be taken into account, the kinds of economic conditions which we think are pretty important are probably primarily the retention of enough strength in the federal government (particularly through its tax and expenditure policies) to carry out a national economic policy.

As against that, we know full well that there are growing feelings of restlessness among the provinces with the existing degree of centralization, throwing real pressure on the provinces for revenues; and that Quebec is sharpening up these issues with a focus which they otherwise might not quite have.



So that in a way we have all the classic ingredients of the struggle for fiscal powers within the federation in somewhat exaggerated form in Canada at the present time.

We examine the main elements at issue. They are not particularly new elements. The struggle for the control of the tax mechanism; the initiative in controlling and launching expenditure programmes; and the third essential element in the federation, that is the sort of redistribution of income between better-off parts of the country and the poorer parts of the country.

The tax-sharing situation has recently been given quite a different twist from any time in the past, by the opting-out formula, which is somewhat ingenious in many ways. It does meet a particular problem; meets the problem of one province, but raises so many perplexing questions for other provinces that the more we examine them the more perplexed we are ourselves.

In fact, we came back to this this morning at some length and I think are really seriously questioning the viability of opting-out as a permanent feature of the system.

It seems, in a sense, to contain its own death. It is difficult for us to visualize that the federal government twenty-five years from now



will still be carefully calculating what hospital insurance costs in Ontario, and giving Ontario an abatement equal to the cost of that programme or any other programme. We find it difficult to consider this as a permanent feature of federal-provincial relations.

However, apart from that, you do have the general question of how the taxes should be shared. We have taken the position in this paper that there is some point -- we say 50 per cent, with apologies -- some point at which the sharing of the personal income tax should stop.

In other words, we feel that in order to preserve sufficient manoeuvrability and initiative for the Federal government, that about half the personal income tax should be left with them.

We suggest that sharing need not stop at personal income tax; that more of the corporate income tax and of the consumption taxes can be transferred from the Federal to the Provincial governments.

Again, there are no magic numbers here. We do attach primary importance to the use of the personal income tax for what the economists call stability purposes, which is more or less the short-run control of the fluctuations of the economy.

Laying primary emphasis on that, we feel that





that makes all the more essential that the Federal government retain a fairly significant share of the personal income tax, and that it can, with less danger, give up some of its other taxes -- its corporate income tax and particularly sales tax.

Now, whether this goes with a system of opting-out, that is, of fiscal equivalents, or whether in fact there may be some outright transfers of revenue between the two levels of government, we really do not try to pre-determine.

On the question of equalization grants, we generally recognize the inevitability of this feature as being one of the postulates of a federation, that there will be a redistribution from the wealthier to the poorer provinces.

We have a few words of comment on what attitude Ontario might take towards the formula, but in general we feel that this might wait for the results of the study that is now being given to the subject, I believe by a sub-committee of the Tax Structure Committee, is it, or of the Continuing Committee?

Then I have anticipated some of the comments on shared-cost programmes by mentioning opting-out and some of the concern that we have about opting-out as a long-run proposition; but, putting it aside for the moment, we feel that if there are



to be continuing joint programmes, that the conditions under which the Federal government makes a grant can be made less restrictive in the future than they are now; that the kinds of requirements governing a programme can be made more general than they are now; that the grants can be paid more in the character of a block basis than they are now, this combining the virtue of simplicity and at the same time allowing provinces greater freedom of action.

I think that pretty well sums up, in a rather unorganized way, the main things that are in here. Just what particular position Ontario should be taking, of course, we do not presume to suggest. These are more or less avenues of exploration that we set out. In fact, they are almost obvious avenues of exploration.

HON. MR. ROBARTS: I would think, Mr. Perry, that this is going to require some very close study by the government. This, to me, is the next step; that this paper, as you have prepared it, is a fairly exhaustive layout of the whole situation now, and it can provide a background on which we will have to decide courses of action. It is a very thorough analysis.

Have you had a chance to read it, Jim?  
Probably not.

HON. MR. ALLAN: Yes, I have read it, and



it provides various lines of thought, but it seemed to me that with the Carter report coming down perhaps very soon, it could be studied better following the receipt of that report.

HON. MR. ROBARTS: There is no doubt of that, because I do not think there will be any release of decisions made until the Carter report is in and also the Smith committee report; but that does not mean that in the meantime we cannot make ourselves completely familiar.

I would like, because I am going to have to leave, if we could perhaps go to the third point for a moment or two before I go.

As far as the government is concerned, I would like to make some of this material public but the question is: what and how? Also the other question, of course, is the effect of making it public.

I do not know what your opinions are, although Ian has expressed to me that any individual contributions perhaps you do not want made public, and I can well understand that.

However, when a thing is put together like this, if you think, for instance, of this paper, really it is a product of the entire sub-committee, not of any one individual, although individuals may have taken individual parts of it.

Would you consider the possibility, for





instance, of making a thing like this public, but none of the individual efforts that have gone into it? Does this meet some of the objections?

I have not absorbed this sufficiently myself yet to come to a conclusion as to whether I want to make it public or not. There are some aspects of it that I would like to give some further consideration to.

On the other hand, I think that as a Committee, doing this task that you are doing, I think we are only going to get a partial result from the total amount done if some of the research that you are doing is not thrown into the area of public discussion.

In other words, perhaps to achieve our ultimate purpose, some of this material at least should be made public in order that the public can be informed, and this is one way of doing it.

Now, these are just some of my ideas on a subject on which I am not looking for any conclusion today or for some time hence, but I think it will be very difficult on a continuing basis to say that none of this material will ever sort of see the light of day, in the hands of the government.

PROF. FOX: The first difficulty, I think, Mr. Prime Minister, on that score, is that if you reveal some parts and do not reveal the rest, you



would be in an awkward position politically, because immediately they want to know what was said in the other papers.

Secondly, if you reveal what was in papers, then they might embarrass you politically, you might be on the horns of one or two dilemmas. Either you had followed the advice of the people you had appointed to advise you or you hadn't. Secondly, it would reveal your position. If this particular paper were revealed, it might weaken your bargaining position at Ottawa.

HON. MR. ROBARTS: That is where you are getting into the area on which I had not yet come to any conclusion. You set out several alternatives but it does, there is no doubt.

As far as the question of not following advice is concerned, this perhaps is more important to you than to me.

PROF. FOX: I do not think this is important to us, but it may be embarrassing.

HON. MR. ROBARTS: I mean, you might attach more importance to it. We have Select Committees that publish reports about various things, and definitive always. It is a point to consider when a piece of research is broad enough. If you were to make some actual specific recommendations, that would be, of course, another matter entirely.

PROF. CREIGHTON: There are some fairly



definite recommendations in this paper, Mr. Prime Minister, are there not?

HON. MR. ROBARTS: Yes, but you do not advise the position for the government directly, at least as I read it.

MR. PERRY: It is a pretty subtle sort of process. We have in the sense that there are probably twenty-five alternatives that could have been examined, and we made quite a judgment even in reducing it to two or three.

HON. MR. ROBARTS: These are the problems. The pressure for publication I do not think is that great. On the otherhand, I was thinking in terms ---

HON. MR. ALLAN: A good many of the proposals or they might be proposals, that are mentioned in this paper, I think, have been discussed in other areas as well. I daresay our federal friends have been discussing some of them.

MR. PERRY: Oh, yes.

HON. MR. ALLAN: Points that are mentioned in this report.

MR. PERRY: The elements here are more or less inescapable.

HON. MR. ALLAN: Yes.

MR. PERRY: It is what emphasis you put on various features of them and the quantities.

HON. MR. ALLAN: Quantities is the rather





important consideration.

MR. STEVENSON: Mr. Chairman, I tend to look on the fiscal and economic sub-committee report as more or less a background of what the Committee feels is a desirable ~~ultimate~~ objective of the Federal-Provincial financial negotiations.

Now, there may be a point -- and I think it certainly was shown in the recent Federal-Provincial discussions -- whereby Ontario may not want to start from its final resting point; that is, that through the process of negotiation you always move a little farther away from it and that particularly in the spot here where one talks about the extent to which the personal income tax can be eroded where it suggests 50 per cent as a maximum, there may be an advantage for Ontario in preliminary discussions to suggest that this could be a good bit higher but with perhaps the eventual intention of settling for 50. Whether or not advance publication of such a paper would affect the bargaining position, I am not sure.

THE CHAIRMAN: On this point, apart from the bargaining position, there was a third point I was mentioning the other evening, sir, that your civil service may well decide on slightly different advice from this paper on this particular point, for example.

HON. MR. ROBARTS: Well, yes.



PROF. CREIGHTON: We are inclined, Mr. Prime Minister, to take the view that it ought to be one thing or the other; that it ought to be completely private or it ought to be public. Therefore, we ought to present a definite report which is a public document or else it ought to be completely private, whatever the value of the advice we offer.

PROF. SYMONS: Would it help if, rather than publishing some particular paper or all papers, if we were to prepare at this time (which is just about at the end of the first year of operations of the Committee) a kind of report or résumé of our activities to date, which would establish the fact that the Committee was doing something, that the nature of its work was perhaps a public service, but would avoid the problem of putting into the public domain some papers that you might not yet wish to be circulated publicly?

PROF. CREIGHTON: We discussed this, sir. We also made the observation that after all, if you begin to list a description of our labours and particularly a tabulation of them, people will say: "Let us have the results of this, that and the other then".

HON. MR. ROBARTS: Quite. I am interested in your opinions on this point, but as I say, it is not a matter for me to decide.



PROF. CREIGHTON: I said "we" when I spoke. Perhaps I ought not to have said "we".

PROF. MEISEL: There is another point, and it relates to what Paul Fox said a while ago about the business that if you publish one thing, once you publish one thing you are in a frightfully difficult position not to publish others.

We came to the conclusion, I think, when we last met that it is not very likely that on many of the issues certainly we would have a unanimous opinion. We are going to produce reports to which not all members of the whole Committee will subscribe. This means that anything we publish probably should say that this represents (if they are published at all) the opinion of some members of the Committee but not necessarily all, which gets you into a very awkward position. You might have reports that contradict one another.

PROF. CREIGHTON: We can say about this particular one though, Mr. Prime Minister, that it is in fact not merely the report of the economic and fiscal sub-committee, but it is substantially the report of the Advisory Committee as a whole, because it was accepted with minor modifications which were incorporated into the final report.

PROF. MEISEL: If you publish this one, why not publish others?

HON. MR. ROBARTS: Yes, "what else"? I think





there are some things that perhaps lend themselves to it more than others, but the problem still remains.

PROF. MEISEL: In the long run the thing may not be to publish certain research studies, which are utterly devoid of recommendations and which do not claim to serve all aspects of a problem, but simply report the facts as researchers or a group of researchers (perhaps one of our sub-committees) sees them in relation to a particular problem; that it could be published as a piece giving insight, collecting data, without being a committee report or policy report, and to some extent we are generating some of these.

HON. MR. ROBARTS: I should think there, though, we should be in the same dilemma, because there are going to be some of them that under no circumstances would we want them published.

PROF. MEISEL: That is right. I think our best bet is not to publish any.

HON. MR. ROBARTS: One seems to get driven into that position. There is no formula that one can arrive at that would be consistent and would still prevent us getting into these difficulties.

In any event, I think I have got your opinions on this area. I will scrub around in my line to see what answers I am going to get from the



Opposition when this matter is debated in the House, because they are interested in what the Committee is doing as they are interested in the entire problem.

PROF. FOX: There are two other aspects of it, sir, that if you wanted to insert ideas into the forum of public discussion, it could be done by individual members of this Committee making addresses or publishing papers under their own name.

PROF. McWHINNEY: As we do anyway.

PROF. FOX: As we do in any case. This permits public discussion, which I think is laudable.

Secondly, this suggestion has been made before and I am not too sure what I think about it, but it is to permit this Committee to make itself available for discussion with members of the Assembly if they wanted to discuss issues with us.

Now, that takes us a bit off our original ground as an Advisory Committee to the government, but it would permit them to enter into the thing without necessarily committing ---

HON. MR. ROBARTS: Only that the extension, of course to that, is that you would then find other people accompanying them, and then you would end up talking about what we have decided you did not want under any circumstances to do, and that



is to receive any representations from the public generally.

PROF. McWHINNEY: A number of these things (I say this as a non-economist) the economic committee choice, for example, in this area of direct taxation, the suggestion of the 50 per cent, this is something that is easy enough to draft in constitutional form if one wishes to do it; but it is a clear sort of policy preference, and it is possibly in that sort of area you may wish public opinion to be guided along a particular direction.

I get from Quebec colleagues the strong impression there is going to be pressure for re-allocation of tax resources. It is possible since for some of Quebec's goals and some of Ontario's in at least expenditure on education, for example, one needs more tax revenue.

It may be, for example, one wants to encourage public opinion in support of a demand for more direct taxation, or perhaps a turning over directly of sources of indirect revenue to the provinces. In this sense one will have to decide whether one wants to use the Committee directly to influence public opinion or new policy.

I was curious as to how the figure of 50 per cent was reached by the economic committee, and we discussed this.

THE CHAIRMAN: By a process of alchemy.





PROF. McWHINNEY: But you can very dramatically change the existing constitutional provisions as to tax powers, and at the same time give more revenue to provinces by amendments, for example, in the area of indirect taxation, or you could strengthen what is now a judicial gloss on the constitution that in my view to some extent departs from the original letter of the constitution or the original historic intentions.

I do not know to what extent the economic committee are evangelists in support of this recommendation. They may be, I suspect they are a bit.

MR. PERRY: I think you are discussing a different issue, Professor McWhinney. The fact is we have urged the sharing of indirect taxes without touching on the constitutional aspect of it.

PROF. McWHINNEY: You have urged?

PROF. FOX: Oh, yes.

PROF. McWHINNEY: It either means sanctioning a judicial gloss, which like all judicial glosses is relatively ephemeral if there are changes in judicial personnel or courts, or else changes in the constitution itself.

There is a follow-through there that I do not think you can logically avoid.

MR. PERRY: Economists can easily avoid this sort of thought.



PROF. McWHINNEY: You should not.

HON. MR. ROBARTS: I think I will take this idea that you have given me.

THE CHAIRMAN: There may be a fairly early opportunity when the vote for the Advisory Committee comes up in the House next week; there may be some questions about procedure.

HON. MR. ROBARTS: I have no doubt there will be. This is a difficult problem. Apart from the question of what the Opposition may say in the House, I am really looking at it from the point of view of final objectives, what we want to achieve. It may be we cannot. Again, if that is the answer, that is it.

HON. MR. ALLAN: Mr. Chairman, I think I would be a little hesitant about showing our hand very much until I knew more about the plans of the federal people.

HON. MR. ROBARTS: That is a very good question and one that I have been turning over in my mind, although this is not part of the function of this Committee: when do you display your position and how much?

HON. MR. ALLAN: I would rather say that 50 per cent is the limit, if we are not going to be given any consideration for indirect taxes, for instance, because the federal people really hold the big cards in this.



PROF. McWHINNEY: No question a recommendation on the direct tax of 50/50 limit, for example, is officially related to what happens to indirect tax, and the present inaction, as I said, very ephemerally rests on interpretations that are easily disturbed by judicial changes.

HON. MR. ROBARTS: I am afraid I have to go, and perhaps we have occupied enough of your afternoon session in any event; but I would hope that at least some of us will be able to join you, perhaps not to take up as much time as we have today, but to come in when you are meeting, so that we can keep a fairly close liaison.

HON. MR. ALLAN: I wonder, Mr. Chairman, if I may be excused. I have some municipal people waiting for me who are trying to impress upon me their needs.

HON. MR. ROBARTS: Thank you very much, gentlemen.

--- Hon. Mr. Robarts and Hon. Mr. Allan retired.

THE CHAIRMAN: Could we have a few minutes in plenary and then we will break up. Is Mr. Gathercole here?

PROF. SYMONS: He left.

MR. STEVENSON: Mr. Seguin left.

THE CHAIRMAN: We are rather decimated in point of numbers.





PROF. CREIGHTON: No, depleted, not decimated -- too strong.

PROF. SYMONS: Mr. Chairman, can I make a comment in the light of our discussion about reporting, which I found not only interesting but very helpful. I felt my thoughts crystallizing during the discussion.

THE CHAIRMAN: As you know and probably gather now, I am by far more self-conscious about this problem than he is, but still ---

PROF. SYMONS: I feel fairly keenly that, if it is at all possible, I would feel the best thing is for the Committee and the Prime Minister to sit tight in regard to publicity, and let our committee get on with its task.

PROF. CREIGHTON: Hear, hear.

PROF. SYMONS: In complete confidence. Any departure from this idea is going to make it very difficult for us to work. I felt this became more evident as we heard his views on the matter.

THE CHAIRMAN: I think it did.

PROF. McIVOR: This is a view that would command a substantial amount of support from other members of the Committee.

THE CHAIRMAN: I rather gathered that this was substantially the view of the Committee. Are there any counter-views at all that might be



expressed?

PROF. BRADY: It may be in six months time we might review the situation.

PROF. SYMONS: Yes.

PROF. BRADY: And it is possible we might see that it would be expedient to make public certain things but I think this is too early now anyway in our labours, and most of our papers hitherto have been working papers.

I think if anything were published, I think in bulk it would have to be a bit larger than any of our individual papers to present; otherwise the wrong kind of impression might be formed.

PROF. SYMONS: Yes. I think our papers, even those selected for publication, would have to be in many cases re-cast, because they were not written with this kind of publication in mind.

PROF. CREIGHTON: No, they were not. The form would have to be materially altered.

THE CHAIRMAN: I did comment on it at some length with the Prime Minister after our last discussion, that people certainly had not written these papers according to normal academic standards -- not to say the content is any less accurate or anything else, but it is just a matter of form and function.

PROF. McIVOR: Mr. Chairman, in view of the preceding verbal discussion with the Prime



Minister, would it be of any possible value to him if we, as a Committee, were now to send through you a sort of formal minute that on some further consideration we reinforce our view that we think there should be a policy of no publication or no public information, at least in the foreseeable future?

THE CHAIRMAN: For example, I do not know if he would want to do this, but I have no doubt the way the estimates debates have been going on our own department, that next week there will definitely be questions raised in the course of the vote under which this Committee comes, about what is happening, what is going on. If this expression of opinion were available from the Committee, I suppose it might be useful to say it.

PROF. SYMONS: It could be of service to the Prime Minister.

THE CHAIRMAN: He can also offer his own views.

MR. PERRY: Are there no precedents at all? Surely we are not the only advisory body in the whole structure of the province.

PROF. CREIGHTON: As the Prime Minister says, there are others.

THE CHAIRMAN: He said there are all kinds of committees. He mentioned the Select Committees.

MR. PERRY: Those are Legislative committees.





THE CHAIRMAN: Then there are all the other Commissions -- the Committee on Legal Aid, the Committee on Securities Legislation, McRuer's Commission and so on, the Ontario Tax Committee; but all of these groups are really producing definitive reports at one point, so to speak, whereas ---

MR. STEVENSON: The Standing Welfare Advisory Committee, I think is very much like this, advising the Department, mostly academic people.

THE CHAIRMAN: Such as John Morgan, he is a regular adviser to the Department of Welfare, in the company of others, on welfare policy.

MR. PERRY: What happens to their deliberations? Are they ever made public?

MR. STEVENSON: I don't think so.

THE CHAIRMAN: Probably no one in the Legislature knows they exist.

PROF. McWHINNEY: Your counterparts really -- and this is where it needs, I suggest, the emphasis the Premier gives it in presenting it to the Legislature -- your counterparts are B and B and the Quebec Committee.

I think everybody has made the affirmative point that they are positively decided not to follow the B and B Commission in spending so much money in public hearings of the circus variety and so on.



As far as the Quebec Committee is concerned, I assume he made a conscious choice with the advice of his staff, against our group functioning as an autonomous body in its own right, with a sort of Frankenstein quality. A very powerful committee, as you know, they began giving press conferences themselves, or some of them did.

I think it can be presented very affirmatively, Mr. Chairman, that you need to try to avoid these other ---

THE CHAIRMAN: Craig, you were suggesting a minute here to the effect that what?

8 PROF. McIVOR: That the Committee re-affirms its position that it would like to adhere to the original terms of reference in which it was set out, and it continue to offer its advice as a private advisory committee to the Prime Minister.

DEAN LEDERMAN: Preserving the confidential character.

PROF. McIVOR: Preserving the confidential character of the work which it is doing.

PROF. CREIGHTON: You could very well supply some of the arguments which have been offered and repeated around the table on a number of occasions.

PROF. McIVOR: And if any precedent could be discovered, so much the better.

DEAN LEDERMAN: But the Royal Commission and the Quebec Legislative Committee are both



eventually working towards reports; they started out that way.

PROF. McIVOR: That is right.

PROF. CREIGHTON: This is a different way. If he wants us to prepare a report, I think we ought to have been told that.

DEAN LEDERMAN: Our franchise is different, I think.

PROF. McWHINNEY: The basis of recruitment of the Committee, certainly the original basis, I think, was that it was essentially a non-partisan expert group, and it would discuss on that basis; whereas I understand from Quebec friends who are members of the Quebec group, that they understood -- and perhaps Lesage did not make it clear to them -- that they were also authorized and even wanted to perform some sort of public educational function.

The B and B, I suppose, was created as a public body really to encourage people to let off steam. The raison d'etre of these three bodies is quite different.

I think you can make an impressive case that this is the wiser of the three choices.

PROF. BRADY: It might be emphasized, too, Mr. Chairman, that, after all, we are not civil servants, but we are really in the status of civil servants with respect to conveying advice, information, policy papers to the government. It is





a long tradition of the British system of responsible government that civil servants do not disclose to the public, the public is not aware of what kind of memos they prepare for Ministers' aid, Prime Ministers' assistance.

It is a long established tradition, and various bodies have existed in the past. For example, you had a kind of economic council in Britain in the inter-war period which did not publish anything publicly, which advised the government.

THE CHAIRMAN: Would Craig's motion meet with the approval of the group, as you enunciated it, Craig?

PROF. CREIGHTON: I think it would meet with the approval if it were supported by the kind of arguments we have been making and repeating around here.

PROF. McIVOR: I would think, Mr. Chairman, in the context of the forthcoming vote in the House, it might be to the advantage of the Prime Minister to be able to say that he had recently discussed this issue with the members of the Committee; that they had gone on record as in the terms of the position I stated, and that he then proceed to defend this substantially in terms of the arguments available as presented by Professor Brady and others.

PROF. CREIGHTON: He might very well say, for



example, that what the critics or the enquirers of the Committee seem actually to desire is what only Royal Commissions could have produced and that is what this is not.

THE CHAIRMAN: O.K. Is that agreeable? We will advance this resolution along with supporting arguments.

We have this room and also the Dominion room and the Rose Room. Now, as I say, our members are depleted. Dean Dillon, Father Matte and Dr. Forsey were not with us originally, and Mr. Gathercole and Mr. Seguin have had to return. I am not sure what this does to the composition now of the augmented committee and the residual committee.

PROF. BRADY: Well, Ian, I think there is a point. We discussed in the cultural affairs committee this morning this question. The augmented constitutional committee members draws, what, four members from it? That raises a question as to future meetings of the Committee.

The cultural affairs committee, of course, does not wish to disappear at the present stage, and I do not think that was contemplated. It has a job that it has to do still, and a great deal of work before it, but it obviously cannot meet ordinarily at the same time as the constitutional committee, since a number of its members are not



able to be in two places at the same time.

Now, that can be got around, of course, if the committees meet at different times. I wonder whether it is not time perhaps to have another look at the procedure of our meetings.

Our procedure in the past has been this monthly meeting, when the whole Advisory Committee meets for a time, perhaps in the morning for a while or in the afternoon, and then the sub-committees meet.

Perhaps what we should do is have meetings of these different sub-committees, not necessarily at the same time or on the same occasion, and perhaps less frequently have a general meeting of the Advisory Committee, when we have reports to discuss or a definite programme, and have it meet on those occasions for the whole day.

That procedure, I think, would get around this problem. There are other things might be done admittedly, but I think on the whole the cultural affairs committee felt perhaps that would be the best procedure. Other members of the Committee may throw in their comments about it, but at any rate something has got to be done.

THE CHAIRMAN: Yes.

PROF. BRADY: A little differently from what our previous procedure has been.

THE CHAIRMAN: We are coming up to the summer,





which is an uncertain period, first of all.

Secondly, it seems that the sub-committees, both in original form and the augmented sub-committee, have got a fair package of work to undertake, over the next, perhaps it is, few months at least.

Meanwhile other things are on commission.

For example, the economic and fiscal committee is just starting a new work. The augmented constitutional committee is starting up new work. The cultural committee has other projects in hand.

We are not likely to be in a position in the near future to report back to plenary, are we?

PROF. BRADY: I would not think so.

THE CHAIRMAN: So the suggestion really means that the sub-committees should meet as they need to meet for whatever purposes they need to meet.

MR. STEVENSON: Mr. Chairman, in addition, I think, apropos the arrangement we have today for people from the Federal-Provincial affairs secretariat to sit in with different groups, in addition to you and Ray and I; if this is agreeable at all we thought that Peter Venton would continue to be more or less semi-attached for the next two months to the fiscal and economic committee, and Miss Joyner to the cultural and Mr. Delisle to the constitutional. This means that they also could be focal points if there were to be meetings at



different times and different places.

THE CHAIRMAN: Staff base.

MR. STEVENSON: Right.

PROF. MEISEL: But this won't mean that  
you ---

MR. STEVENSON: No, it doesn't matter. If  
there were any problems of duplication of timing or  
the rest of it.

THE CHAIRMAN: Won't shake it off.

PROF. MEISEL: I was just wondering.

DEAN LEDERMAN: Mr. Chairman, I was just going  
to support what Dr. Brady had said, as a person  
who stirred things up in this respect perhaps, but  
I never intended, of course, to deal any kind of  
body blow to the cultural sub-committee, but this  
points to one of our dilemmas that arises from  
dividing into these three sub-committees.

To some extent the division of work has been  
very fruitful and very good, but it means that  
people who have a lot to offer in one field, find  
themselves in another field.

As far as the committee assignments are  
concerned, I think we will have to think in terms  
of more dual membership in these committees of  
some people, at least to attend the meetings of  
more than one sub-committee.

If the economic and fiscal committee is  
going to get into constitutional problems related



to resources development and water and so on, they will need a political scientist or lawyer to be present. If the cultural committee is dealing in educational matters, there are plenty of legal and constitutional implications there. If we need, let us say, Professors Fox and Brady in the constitutional committee from time to time, perhaps the cultural committee would need Professors Creighton and Forsey from time to time.

These basic sub-committee assignments have been good, but I think we will have to cross these lines more than we have in the past. This simply supports what Dr. Brady is saying about scheduling the meetings so that this can be done.

THE CHAIRMAN: Yes.

PROF. CREIGHTON: Mr. Chairman, I wonder if it would be best to leave the new division of the Advisory Committee for a time and in the summer to proceed with the present committees as they are; because it seems to me that you either have to proceed as we are at present, or else there must be a complete re-organization of the whole committee structure within the Advisory Committee as a whole and that there must be a reinforcement of the cultural committee just as there has been an augmentation of the constitutional committee.

I think that the committees as they are at present can still carry on a lot of work, and perhaps





this is the most convenient form for them to remain during the summer when this research is proceeding.

Otherwise we will be meeting fairly frequently in several capacities whereas I think the kind of preliminary reports which we propose to draw up this summer, as far as the constitutional committee are concerned, would be regarded as drafts and might very well serve as a preliminary.

I think if the Advisory Committee as a whole is to be reorganized, it could very well be reorganized in the autumn again, after a good deal of this preliminary work has been done.

I think both committees, the cultural committee as well as the constitutional committee, have a great deal more work of a variety of kinds before they can come up with any very concrete and supported positions, that that might be undertaken during the summer.

DEAN LEDERMAN: The only thing I had in mind when I made this proposal on the list of topics and the larger committee, was that one would assign these topics to various members of the committee for the purpose of preparation of these preliminary drafts, the draft reports, documents, studies. That was all I contemplated attempting to do today, and perhaps it will not be feasible



even to do it today. Perhaps we can do it by mail or negotiation, I don't know.

THE CHAIRMAN: The only concern I have about spawning the work and the detail of the work of the augmented committee is this, that the Prime Minister mentioned today (I think he used the words) that some of these issues are going to come up within the next few weeks.

I think what he had in mind were two things. First of all, there has been a high degree of interest in this area demonstrated recently at the private member level in the Legislature. Secondly, when the Quebec election is over on June 5th, I think it is contemplated there will be a return of interest in the context of the whole federal-provincial discussion that is going to take place at the Prime Ministers' level during the next few months.

Therefore I do feel, whatever the form this may take, that there is certainly some urgency in getting on with this job as much as members of the Committee can muster for it.

DEAN LEDERMAN: He wants something quickly on amendment, was it?

THE CHAIRMAN: Yes.

DEAN LEDERMAN: This was quite clear. I can produce something by, let us say, late in June. We could have a meeting then on that basis.



PROF. CREIGHTON: Of the augmented ---

DEAN LEDERMAN: Of the augmented committee.

PROF. CREIGHTON: Constitutional committee.

DEAN LEDERMAN: Both the Attorney General and the Prime Minister gave this priority.

THE CHAIRMAN: Yes.

DEAN LEDERMAN: Not perhaps because it has priority in the ultimate scheme of things, but because they are going to have to face it quickly, just because it is 1967 coming up, I suppose.

THE CHAIRMAN: I see it coming up soon. I think it would be a great tragedy if we really had not done our job, because it is too much of a responsibility for that sort of thing.

DEAN LEDERMAN: This, I should think, is the one high priority in that list of seven topics I read to you. If this could be dealt with at a meeting a month hence, then the other things are not so urgent, though I think they ought to be parcelled out by summer.

PROF. CREIGHTON: Is this the only thing you have in mind as being absolutely necessary before the ---

DEAN LEDERMAN: In the constitutional field that is the thing.

THE CHAIRMAN: I suppose people have to decide how hard they want to work. There would be the bifocal here, just who would work on both





cultural and constitutional. Does this meeting settle who this is, or is it still ---

PROF. CREIGHTON: No, this has not been settled at all; it has been discussed.

MR. STEVENSON: Mr. Chairman, as you know, the starting point was the foreign aids in the cultural committee which were suggested at the last meeting in April.

DEAN LEDERMAN: This was just a suggestion on my part and has no more status than that.

MR. STEVENSON: But this could be a starting point. That is as far as it goes at this point. I do not know what the sub-committee on policy research decided in this respect. You have had a meeting.

PROF. CREIGHTON: As I understood it, we accepted this, but I think perhaps without too much discussion.

THE CHAIRMAN: What was proposed at the meeting was that perhaps at the meeting on May 20th the composition of the proposed augmented constitutional sub-committee might be discussed, particularly by the cultural sub-committee. If the composition of the augmented committee were agreed upon, the afternoon session would be with revised groups, i.e. the economic and fiscal committee as it now stands, the augmented constitutional sub-committee, and the remainder of



the cultural sub-committee.

If this proves satisfactory, it is suggested the same procedure might be followed in June.

PROF. CREIGHTON: I can see the benefit of having an augmented constitutional sub-committee discuss this particular problem, because it is emerging as a very concrete topic at the present time; but I think if we are going to reconstitute one committee, you will have to do the others as well, or else you will have to abandon two committees, and you are left with nobody at all or very few.

DEAN LEDERMAN: As I say, I can produce a draft paper of modest dimensions for the June meeting, whenever we set that, on the amendment problem and the Fulton-Favreau formula.

Then the Prime Minister was attracted by the idea of papers being done on these topics, so I think somehow we ought to try and organize it and do it.

We could perhaps do two things next month: consider the draft on the Fulton-Favreau formula thing, try and put that in some sort of final form as confidential advice for the government; also parcel out these other topics for the summer.

Meantime the policy research sub-committee could take another look at the committee organization,



I suppose. Part of the puzzle on this is that Dr. Brady is doing the basic study on the Dominion-Provincial conference in the constitutional field and yet he sits all the time at the cultural committee. When do the rest of us discuss it with him outside of plenary sessions? This is such a puzzle.

PROF. BRADY: I think, Mr. Chairman, Dean Lederman's suggestion is a good one, that we have a meeting in June and a discussion of a memo that he would prepare on the Fulton-Favreau and the amended scheme. But now are we to have a general Advisory Committee meeting in June, is that essential?

THE CHAIRMAN: I do not think it is essential at all. In fact, I would presume that we would likely want to meet in our June meeting in sub-committees for the whole day. If, however, these sub-committees are constituted, I think we have enough work to do by then, haven't we, unless you think you would be in a position to arrive at some committee conclusion on the formula.

PROF. CREIGHTON: Better to do that, if it is going to be the Advisory Committee, would it not?

DEAN LEDERMAN: What exactly is the time at which Mr. Wishart and Mr. Robarts have in mind? They are expecting to have to face it by August,



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which Mr. Wishart and Mr. Roberts have in mind?

They are expecting to have to face it by August,



I think, August Prime Ministers' meeting.

THE CHAIRMAN: No, actually they are meeting in June, but that won't come up at that meeting. It is most likely not until September, I would say.

DEAN LEDERMAN: Perhaps it would not have to go to the full Committee then in June.

THE CHAIRMAN: No.

DEAN LEDERMAN: It could be the June meeting could be used for the constitutional sub-committee, augmented or not, to work it over.

THE CHAIRMAN: This is what I would think.

PROF. BRADY: Mr. Chairman, if I might revert to a point I mentioned before, there would be nothing to prevent any sub-committee meeting at another time than the monthly meeting.

THE CHAIRMAN: That is right.

PROF. BRADY: The cultural affairs committee might wish to meet on something that it is doing, or it may not (it all depends) but if it is so felt presumably it can convene, right?

THE CHAIRMAN: Any time, yes. The meeting this morning of the cultural sub-committee ---

MR. STEVENSON: I did not distribute to everybody.

THE CHAIRMAN: I see.

DEAN LEDERMAN: We tentatively set June 24th as the meeting day, did we not? Does this still stand?



THE CHAIRMAN: This is still agreeable to me if it is to the Committee.

DEAN LEDERMAN: What day is June 24th?

PROF. FOX: Friday.

PROF. CREIGHTON: St. Jean Baptiste Day.

THE CHAIRMAN: We thought it was fitting.

PROF. MEISEL: Mr. Chairman, I would like to raise another matter which is related to all this that we have not faced yet. This idea of trying to arrange for some sort of conference in 1967 should be looked at. If you are going to do anything, the pre-planning should have started about a year ago.

Therefore, if we think that we would like to look into this, we ought to be establishing some kind of machinery for looking into it; deciding what the scope of the subjects to be discussed would be, the people to be invited, the time and place of the meeting and so on.

PROF. McWHINNEY: What conference is this? A scientific one?

PROF. MEISEL: Last month after one of our many meals I think Paul ---

THE CHAIRMAN: I think it must have been the Saturday, not the Sunday meal.

PROF. CREIGHTON: We only had two luncheons.

THE CHAIRMAN: We were not as well fortified on the Sunday.



PROF. BRADY: Was it during the cocktail period?

PROF. MEISEL: I think it was during the social, and I think it was Paul who suggested it might be an interesting idea for the Committee to organize a conference to which would be invited people from different provinces to discuss some of the matters which are of interest to us. It turned into a sort of unofficial Dominion-Provincial conference by the time we were through, with politicians and officials, scholars, perhaps being invited to meet in Kingston.

PROF. McWHINNEY: Why Kingston?

PROF. MEISEL: Such a beneficial place.

PROF. McWHINNEY: Something must be done to protect the rest of the province.

THE CHAIRMAN: It wasn't Toronto and it had some historic interest.

PROF. McWHINNEY: Why didn't this Committee do this rather than the University? This is very much like the standard university meeting.

DEAN LEDERMAN: I think we have just made a decision that we are a confidential committee. Is it consistent with that to start giving invitations?

PROF. MEISEL: I think perhaps it is highly inconsistent. Nevertheless, we could confidentially recommend to the Cabinet that the





province of Ontario -- I do not think the auspices were really discussed, but I think there were three or four of us standing there talking and we thought that it might be appropriate to get an informal discussion of this kind going. So then we would presumably advise the Government of Ontario to convene such a meeting. It wouldn't be this Committee.

PROF. CREIGHTON: Mr. Robarts today was talking very sceptically about any kind of conference, was he not?

PROF. McWHINNEY: They are entirely good fun and, as you know, most all universities have been doing them. They are not terribly productive so far. Maybe this Committee of more diverse talents would change that.

This is, I suppose, related to the suggestion you made of bringing Claude Morin down?

PROF. MEISEL: It was not really related to that at all.

PROF. McWHINNEY: I would like to see Claude Morin, preferably not at Kingston.

THE CHAIRMAN: We are getting very detailed now. I think there is a certain presumption that this Committee might not necessarily be immortal as a Committee, and this might be the summation of our labours; that on that occasion the cloak of anonymity might be lifted and there we all be,



as the Globe and Mail described us -- the bashful brains trust in full array.

However, perhaps, with respect, I will agree with all your sentiments about administration planning, but maybe perhaps within the next month people may care to digest this idea a bit. I did try it out on the Prime Minister actually. He was interested in it.

PROF. CREIGHTON: He was interested? He didn't sound that way today.

THE CHAIRMAN: Let us say he was politely interested.

PROF. McWHINNEY: He is always polite.

PROF. MEISEL: I think it depends on what kind of conference it is, and even the word "conference" I think makes certain assumptions that you may not want to make.

PROF. McWHINNEY: Dialogue is the modern word.

THE CHAIRMAN: I thought this had been replaced by "teach-in".

DEAN LEDERMAN: I prefer Dr. Bissell's phrase that the "think-through", I think he called it, was what was needed.

THE CHAIRMAN: With that on record for consideration, coming to the June meeting, I would think from all that has been said and for the reasons we have mentioned, certainly the economic



and fiscal sub-committee could carry on and that there would be work on that day for the augmented constitutional committee, with particular attention to the amending formula.

That leaves the decision really in the hands of the cultural sub-committee, both for other meetings as they see fit for their continuing work, and also to determine what the residual of the committee would do on the 24th.

DEAN LEDERMAN: With the whole day for sub-committee meetings, the cultural sub-committee for part of the day could be in full strength, sort of thing.

THE CHAIRMAN: I would think you could be flexible about this.

DEAN LEDERMAN: They might be augmented for part of the day.

THE CHAIRMAN: Have a half day of each kind. You might even choose to meet as one committee on that day.

DEAN LEDERMAN: Yes.

THE CHAIRMAN: For purposes constitutional at one time and cultural at another?

DEAN LEDERMAN: Yes, that is an alternative we have not really explored yet: simply have a joint meeting of the two committees on the 24th and deal with topics that have been at the centre of the attention of each.





PROF. CREIGHTON: But priority given to that one.

DEAN LEDERMAN: Priority to the amendment, because the Prime Minister has indicated.

THE CHAIRMAN: Should we work to that pattern or some variation of that pattern, at least giving first attention to the ---

MR. PERRY: Amendment business, yes.

THE CHAIRMAN: That is the 24th. For the balance of the afternoon, what is your wish? We have this room, two rooms down the hall are reserved, for whatever time remains.

I think, Harvey, you did not get far along by way of setting up terms of reference for the new work, did you, this morning?

MR. PERRY: The list could hardly be described as terms of reference.

THE CHAIRMAN: Perhaps we can tidy that up a bit now and give some guidance to our work people or our staff.

What about the other two committees? Do you have other work you want to carry on with today?

DEAN LEDERMAN: I am not clear about the point whether we had reached a decision that we won't attempt until next month to parcel out the other topics on the list of seven.

THE CHAIRMAN: Could I suggest for the balance



of the afternoon that those that remain from the committees, meet as a group and give attention to the topics that come under joint purview?

DEAN LEDERMAN: The cultural and the constitutional committees stay put here and talk this thing over.

THE CHAIRMAN: In fact that only leaves -- we are getting thinner on the ground.

MR. PERRY: Professor McIvor has left.

THE CHAIRMAN: Eight or nine people anyway. I think the main thing is to see the work is in hand. How are matters in your area, Paul?

PROF. FOX: Great. The grass is growing, the weeds, under the cultural sub-committee. We want to give some further attention to a point that Mr. Davis raised two months ago when he met with us. You will recall that he asked on that occasion for some suggestions about cultural exchanges, and we thought we might discuss some of these ideas at some point. Tom Symons in particular was going to look into this problem and think about it.

Then Dr. Brady and I have commenced a discussion with officials of the Department of Education about the teaching of courses in French in the public school system, and presented a brief report to the cultural sub-committee. It was very much an interim report this morning, and we have



further work to do in that field.

This was part of the continuing work that the cultural sub-committee was going to go on with, so there are two major areas there in which there are things for the cultural sub-committee to do, at some point between now and June. There is certainly enough to be done.

So we could either meet separately or with the constitutional sub-committee today, whatever your feelings or the feelings of the members are.

PROF. CONWAY: It seems to me, Mr. Chairman, that since time is getting on (it is nearly quarter past four) we might just as well go back to our original sub-committees and then meet as a joint committee on June 24th, and see if there are any matters to tidy up as against that meeting in June.

THE CHAIRMAN: It is certainly agreeable to me. I presume people do not want to stay much beyond five o'clock in any event.

--- The meeting concluded at 4.15 p.m.

















